

**Scotiabank®**

**Small  
Business  
Financial  
Services  
Agreement**

**September 2020**



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# Introduction

## *Welcome to Scotiabank Small Business Banking*

Knowing how to meet business expectations begins by working with a bank that is committed to meeting your needs. At Scotiabank, our Small Business Banking team works with you to understand your specific business needs and deliver flexible, customized financial solutions to help you achieve your goals. As your financial partner, we know how to use our extensive industry knowledge and global expertise to help you navigate the ever changing marketplace.

## *Small Business Financial Services Agreement*

In this booklet, we explain the types of products and services offered, along with the terms and conditions that govern our Business Accounts, Certificates of Deposit, Term Deposits, and the following Services:

- *Scotiocard* Banking Card;
- *Scotia OnLine* Internet Banking;
- Small Business Credit Products; and
- Cash Management Services.

To benefit from these Services, you must open a Business Account and you must not in any circumstances utilize any personal accounts opened by you for business purposes. While we offer a variety of Business Accounts, Certificates of Deposit, Term Deposits, products and Services designed to meet the needs of our Small Business Customers, not all Business Account products, Certificates of Deposit, Term Deposits, products or Services are available in every country in which we operate.

As you must be approved for all Business Accounts, Certificate of Deposit, Term Deposit products and Services, we require that you complete the Business Accounts and Services Application or the Additional Business Account Application (as applicable) (collectively referred to in this booklet as, the “Business Account Application”) or otherwise provide us with the information requested in the Business Account Application we provide to you. You certify that any and all information and documents (including evidence of incorporation and continuing good status) submitted by you to us are true, correct and complete. You also agree to promptly notify us of any changes to any of this information or to any of the documents you have provided to us.

You must also apply separately for and be approved for our financing and risk management solutions, including our trade finance and foreign exchange services. Please contact your branch or a Small Business Banking Centre for more information.

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## *Terms we use in this Agreement*

**Agreement(s)** means, unless stated otherwise, collectively, all of the terms and conditions in this booklet including the Small Business Term Deposit Agreement, the Cash Management Services Agreement, the *Scotiabank* Cardholder Agreement, the Scotiabank Privacy Agreement, the Small Business Credit Agreement the Business Account Application, the Term Deposit Confirmation form, the Term Deposit Schedule, the Certificate of Deposit Confirmation form (as applicable), any Service Request & Pricing Schedule, the Personal Net Worth Statement, the Small Business Commitment Letter, all certifications and consents provided in any application for banking services and any other document, supplement, schedule, appendix, addendum, document or agreement that reference this Small Business Financial Services Agreement booklet or which incorporates by reference in this Small Business Financial Services Agreement booklet or that is expressly made a part of this Small Business Financial Services Agreement booklet, all as may be amended from time to time, and as they apply to you and any instructions you give us under any of the Agreements.

**You and your** mean the business customer, an individual (in the case of a sole proprietorship), all partners (in the case of a partnership), a company (in the case of a corporate entity that is incorporated), and an unincorporated association/organization and any director, officer, partner or signing officer to the Business Account, Certificate of Deposit and/or Term Deposit. It also means any individual who has provided a guarantee for any financial or insurance product or Service offered by us.

**We, our, us, Scotiabank, and the Bank** mean, as applicable, The Bank of Nova Scotia and its branches and subsidiaries and affiliates operating outside of Canada, including but not limited to, its subsidiaries branches and agencies in the United States, the Caribbean, Central and South America.

**Scotiabank Group** means collectively, The Bank of Nova Scotia and all of its subsidiaries and affiliates.

## *Other Definitions you need to know*

**Any Branch Banking (“ABB”) Full Service** allows you, with our permission, to access your Business Account, Certificate of Deposit and Term Deposit (where applicable) at other Scotiabank branches in the country where your Business Account, Certificate of Deposit or Term Deposit is Domiciled. This privilege is only available to Business Accounts, Certificates of Deposit and Term Deposits with a single signing officer and is subject to restrictions and we also reserve the right to limit or remove such Service at our discretion.

**Any Branch Banking (“ABB”) Deposit Only Service** allows you, with our permission, to deposit monies at other Scotiabank branches in the country where your Business Account is Domiciled. This privilege is subject to restrictions and we reserve the right to limit or remove such Service at our discretion.

**Authorized User(s)** means your employees, officers, directors and agents or the employees, officers, directors and agents of any of your affiliates who you have authorized to view or conduct transactions via the Cash Management Services (CMS) you have selected on the CMS Service Request & Pricing Schedule.

**Automated Banking Services** are channels where you can access your designated Business Accounts, Certificates of Deposit and Term Deposits (where applicable) and may, in your country, include:

- Designated Automated Teller Machines (ATMs) for ABB Full Service where there is a single signatory to the Business Account and ABB Deposit Only Service for other circumstances;
- *TeleScotia* telephone banking through our Contact Centres or Business Support Centres;
- Debit Point of Sale payment devices (POS) for ABB Full Service Only;
- Cash Management Services; and
- *Scotia OnLine* Internet Banking and *Scotia* mobile banking (if applicable).

**Bill Payment Company** refers to a business, company utility company or other party that has an arrangement with Scotiabank to be a payee of bill payments through the Service for which you have been registered by Scotiabank for branch, telephone banking, ATM, *Scotia OnLine* Internet Banking, *Scotia* mobile banking (if applicable) and/or Cash Management Services access.

**Business Account(s)** are our business chequing and business savings accounts that we offer.

**Business Day** refers to regular weekdays only and it excludes Saturdays, Sundays, bank holidays and any government holiday(s) or statutory holiday(s) in the country where you maintain your Business Account(s) or Term Deposit(s).

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**Card** means an unexpired Visa® card, MasterCard† card, American Express®† card, Discover† card, debit card or any other card that is valid or accepted by the Bank or the merchant as the case may be.

**Certificate(s) of Deposit** means the products that are offered by the Bank which have a fixed term and pay a fixed amount of interest.

**Certificate of Deposit Confirmation** means the document that we provide to you when you purchase a Certificate of Deposit from us. It also includes, where applicable, the Certificate of Deposit Renewal Confirmation from. The Certificate of Deposit Confirmation form contains information about the Certificate of Deposit purchased, the amount, its term, the interest rate(s), interest payment date(s), the maturity date and other information.

**Debit Point of Sale (POS)** refers to the point or place at which a debit transaction is concluded by a cardholder by whatever means and includes, but is not limited to, transactions concluded in person.

**Debit transaction(s)** include any type of withdrawal including cash withdrawals, cheques and instruments drawn on your Business Account(s), funds transfers (regardless of whether the transfer is to another Scotiabank account), bill payments, bank drafts, money orders, pre-authorized payments and any other methods of direct payments.

**Domicile account, Domiciled or domicile branch** refers to the country in which your Business Account(s), Certificate(s) of Deposit or Term Deposit(s) is/are maintained.

**Electronic Communication** means any communication by facsimile, telephone, internet, email, mobile or cellular phone, smart phone, personal digital assistant or any other method of electronic telecommunication or electronic transmission.

**Electronic Signature** refers to each combination of numbers and/or letters selected by you, for your exclusive use, as a means of your authorization to use certain Services that are



available from us from time to time. Your Electronic Signature includes, but is not limited to: (i) your Personal Identification Number (“PIN”) for your *Scotiabank* banking card used at branches, Automated Teller Machines (“ATMs”) and debit POS Devices, (ii) your Personal Access Code (“PAC”) for access to *TeleScotia*, (iii) your written signature at debit POS Devices without PIN pads, or (iv) security codes such as access codes, security questions (personal verification questions) and answers and passwords for access to *Scotia OnLine* Internet banking and *Scotia* mobile banking (if applicable) and Cash Management Services. We treat and accept your Electronic Signature as your authorization whenever it is used with any Automated Banking Service including your *ScotiaCard*, credit card, *TeleScotia*, *Scotia OnLine* or any other Service and any instructions received or transaction done using our Automated Banking Services and your Electronic Signature will have the same legal effect as if you signed a written direction to us.

**Inactive Business Account** means an inactive or dormant Business Account as a result of you not completing a transaction or requesting a statement of account on your Business Account within the period stipulated by your domicile branch. Inactive Business Accounts cannot be accessed through Automated Banking Services or through any other Scotiabank branch.

If your business account becomes inactive or dormant, we require that you visit your domicile branch and present acceptable proof of your identity and address to reactivate your Business Account. If your Business Account remains inactive, we will follow the laws of the country in which your Business Account is Domiciled concerning inactive accounts, which may include transferring your money to government authorities after a specified period of time and following certain legal procedures.

If you register for telephone banking, you will not be able to access the *TeleScotia* telephone banking service if you fail to activate the service for a period exceeding six (6) months.

**Sanctions** means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures imposed, administered or enforced by a Sanctions Authority.

**Sanctions Authority** any one or a combination of:

- (a) the United Nations;
- (b) the United States of America;
- (c) Canada;
- (d) the United Kingdom and each other respective member of the European Union; and
- (e) the governments and official institutions or agencies of any of paragraphs (a) to

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(d) above, including the Security Council of the United Nations, OFAC, the United States Department of State, Global Affairs Canada and Her Majesty's Treasury of the United Kingdom.

**Scotiabank Banking Card** means the banking card and any renewal or replacement card we have issued to you by us upon your request that has a unique card number and that is used with your Electronic Signature to access to Automated Banking Services and other Services set out in this Agreement. For sole proprietorships the Scotiabank Banking Card provides you full functionality at our Automated Banking Services. For incorporated entities, partnerships and unincorporated associations/organizations, this card provides you only deposit functionality.

**Self-service transactions** are transactions processed through a Scotiabank ATM, telephone banking services, *Scotia OnLine* Internet Banking, *Scotia* mobile banking (if applicable), Debit Point of Sale or Cash Management Services without the help of a teller or a bank officer.

**Service** means any business banking or financial product or service offered by us and may include insurance and brokerage products or services that are offered by our subsidiaries.

**Service Request & Pricing Schedule** is the application form that is used when you subscribe to Cash Management Services and that forms part of this Agreement.

**Taxes** mean any present or future levy, impost, duty, stamp duty, charge, assessment or fee by any government authority, monetary agency or central bank or other taxing authority in respect to any payment due under this Agreement. These include interest, penalties and any additions to them.

**Teller-assisted transactions** are transactions that are processed directly with a teller or a bank officer at a Scotiabank branch.

**Term Deposit(s)** means the fixed term deposit product that is offered by the Bank that has a fixed term and pays a fixed amount of interest.

**Term Deposit Confirmation** means the document that we provide to you when you purchase a Term Deposit from us. It also includes the Term Deposit Renewal Confirmation. The Term Deposit Confirmation form contains information such as the type of Term Deposit purchased, the amount, its term, the interest rate(s), interest payment date(s), the maturity date and other information.

**Term Deposit Schedule** means the document that contains the type of Term Deposits we offer in a particular country, along with the various terms, the minimum amount required to purchase the various Term Deposit products and the interest payment frequency(ies), as amended from time to time in accordance with applicable law.

## ***Scope of this Agreement***

By signing the Business Account Application, the Certificate of Deposit Confirmation or the Term Deposit Confirmation, you acknowledge having received this Small Business Financial Services Agreement booklet and the Term Deposit

Schedule (if applicable) and you agree to all of the terms and conditions governing your Business Account(s), Certificate(s) of Deposit and/or Term Deposit(s). If, where applicable, you opened a Business Account, Certificate of Deposit or Term Deposit over the telephone or the Internet, your use of the Business Account or our opening a Certificate of Deposit or Term Deposit will indicate your agreement with the terms and conditions governing the Business Account, Certificate of Deposit and/or Term Deposit.

This Agreement contains terms and conditions that apply to all Business Accounts, Certificates of Deposit, Term Deposits and Services. It also contains specific terms and conditions for your use of:

- Automated Banking Services;
- *Scotiocard* Banking Card;
- *Scotia OnLine* Internet Banking;
- *Scotia* mobile banking (if applicable);
- Small Business Credit Services;
- Cash Management Services;
- Small Business Term Deposit and Certificate of Deposit Products; and
- Electronic Communication

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## *Operation of this Agreement*

This Agreement, as amended by us from time to time, and the instructions given by you under it, constitute the entire agreement between you and the Bank regarding the Business Account(s) and Term Deposit(s) and it replaces all previous agreements, either written or oral, that we have entered into with you for any of the Services covered by this Agreement. The terms in this booklet and in the Small Business Term Deposit Agreement also apply to Certificates of Deposit to the extent they do not conflict with any of the terms set out in the Certificate of Deposit Confirmation. If there is a conflict between the terms set out in the Certificate of Deposit Confirmation and any of the terms in this booklet or in the Small Business Term Deposit Agreement, the terms of the Certificate of Deposit Confirmation form shall prevail to the extent necessary to resolve the conflict.

### **Use of Business Accounts, Certificates of Deposit, Term Deposits and Services**

You acknowledge that you are not carrying on or associated with activities that are improper, illegal or unlawful or that you are not connected with a business that we may determine, in our sole discretion, is a restricted business.

You acknowledge that anti-money laundering and terrorist financing laws and regulations, anti-corruption and bribery laws, as well as laws relating to economic trade Sanctions, as they may be amended from time to time, apply to the operation of your Business Accounts, Certificates of Deposit, Term Deposits and Services and that we will, from time to time, adopt policies and procedures to address the reporting, client identification and record-keeping requirements of these laws and regulations. You agree to abide by and comply with all such policies and procedures, as applicable, and recognize that such policies and procedures may be more rigorous than the statutory requirements.

You agree that the Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and Service(s) are not to be used by, or on behalf of, a third party or parties without our prior written permission.

You agree that the Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and Service(s) are to be used solely for your benefit. If this is not the case, you must tell us and provide us with the particulars of any third party that may benefit from the Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Service(s) and their relationship with you.

You agree not to use any Business Account, Certificate of Deposit, Term Deposit, product or any of our Services or give any instructions for any unlawful, illegal or improper purpose, or otherwise in violation of applicable law, including laws relating to anti-money laundering and terrorist financing, anti-corruption or bribery, as well as laws relating to economic or trade Sanctions. You also agree to perform your obligations in this booklet and under any applicable Agreement you have entered into

with us in accordance with applicable law and that we may comply with any lawful third party demand that we may receive in connection with your Business Account(s), Certificate(s) of Deposit or Term Deposit(s).

The terms and conditions in this Agreement and the Certificate of Deposit Confirmation, as they apply to you, are binding on you and any person who succeeds you (including trustees, receivers, heirs, executors, administrators and other legal representatives) or takes on your obligations.

Subject to applicable law, you may not assign or transfer any Business Account, Certificate of Deposit, Term Deposit, product or any Service or this Agreement without getting our written permission first. You will notify us immediately if you transfer or sell any substantial part (at least 25% of the assets or share capital) of your business.

This Agreement and all transactions contemplated under it and any claim, dispute or controversy relating to this Agreement and all Business Accounts, Certificates of Deposit, Term Deposits, products and Services shall be governed, construed and interpreted in accordance with the laws of the country where your Business Account, Certificate of Deposit, Term Deposit or Service is Domiciled, and you agree to submit only to the jurisdiction of the courts of that country.

We will provide you with a Term Deposit Schedule that applies to the Term Deposit(s) when you open the Term Deposit(s) with us. In the case of a Certificate of Deposit, we will provide you with a Certificate of Deposit Confirmation form.

### **Adding or changing the terms of the Agreements and notification of changes**

We can add, remove, modify, amend or change any of the terms and conditions in this booklet, the Term Deposit Schedule or any other Agreement, product or Service at any time and from time to time. We will notify you of changes in accordance with legal requirements.

Notice of additional or amended terms and conditions will be given to you in any of the following ways:

- i. a notice addressed to you at your last address in our records,
- ii. a notice prominently displayed at our ATMs or on our ATM screens,
- iii. an announcement through the voice-response-unit (VRU),
- iv. a notice on the Scotiabank website,
- v. a notice in our branches, or
- vi. a notice in your statement.

You agree that any such notice of changes in the terms and conditions of the Agreement will be binding upon you and forms part of this Agreement without requiring your signature.

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We consider you to have received the written notice: (i) on the same day it was sent if sent by fax or by Electronic Communication, (ii) on the day it was hand delivered, (iii) when it is posted in our branches, posted on our website, displayed at our ATMs or on our ATM screens or announced on our voice-response-unit, (iv) printed in your statement, or (v) on the fifth (5th) calendar day if sent by regular mail. If your address is in The Bahamas, Guyana, Antigua & Barbuda or Barbados we consider you to have received the notice on the fourteenth (14th) day of it being mailed.

If you use the Business Account or if you have funds on deposit in the Business Account, in a Certificate of Deposit or in a Term Deposit account or use any of the Services following notice of such change means that you agree to and accept the changes made to the applicable Agreement(s). If you do not agree with any of the changes made, you must immediately stop using the Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or Service(s), and notify us that you are terminating this Agreement and close the Business Account(s), Certificate(s) of Deposit and/or Term Deposit account(s) (where permitted).

If any part of this Agreement is not enforceable, the remaining provisions remain valid and enforceable.

### **Account closure/terminating a Service**

- a) **Without Notice:** We may close your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or terminate any Service(s) we provide to you under this Agreement, without prior notice to you, in any circumstance in which we consider it reasonable to do so, including, without limitation, in the following circumstances:
- if you do not operate your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or Service(s) in a satisfactory manner, for example, if you maintain an unauthorized overdrawn balance, issue frequent non-sufficient funds (NSF) cheques on your Business Account,
  - breach any terms and conditions of this Agreement,
  - have long outstanding unpaid service charges,
  - if you do not provide us with any documentation required to open, operate or maintain your account,
  - if we have reasonable grounds to believe or suspect that you are engaged in any unlawful purpose or otherwise involved in the violation of any law or regulation including laws relating to anti-corruption and bribery, money laundering, terrorist financing, or Sanctions,
  - or if you otherwise are deemed by us in our sole discretion to pose any risk to our business, personnel, operations, or reputation,
  - if we have reasonable grounds to believe that you are using the Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or Service(s) for any

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illegal, unlawful, fraudulent or improper purposes or otherwise in violation of applicable laws including anti-corruption and bribery, money laundering, terrorist financing, or laws relating to economic or trade Sanctions,

- if we have reasonable grounds to believe that it is necessary to terminate our relationship with you in order to protect our customers or employees from physical harm, harassment or other abuse,
- if we have reasonable grounds to believe that you, for the purpose of opening your Business Account, Certificate of Deposit or Term Deposit account, knowingly made a material misrepresentation in the information you have provided to us,
- if we are instructed to do so by any government agency or regulatory body that has authority over us, or
- if you become insolvent, bankrupt or a receiver is appointed over your assets.

- b) **With Notice:** We may close your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or terminate any Service(s) under this Agreement, without reason, by giving you thirty (30) days' written notice.

To the extent applicable, your obligations to us continue if we close your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or cancel a Service(s). You are not relieved of your obligation to us regarding any terminated Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or Service(s) until your obligations to us have been satisfied in full.

## **Non-residents**

If you are a non-resident of the country where your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Service(s) is/are Domiciled, you are advised that off-shore banking transactions may have tax consequences in the country where your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Services(s) are Domiciled and/or in your home country. Accordingly, if you are a non-resident, you should consult with and obtain prior written advice for such transactions from qualified tax and/or legal advisors in your home country or where the Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Services are located. We may request a copy of such advice prior to opening any Business Account, Certificate of Deposit, Term Deposit or providing you with a Service or anytime thereafter.

We will withhold taxes on payments to you only where required to do so by law, otherwise you are responsible for any taxation that may be incurred on your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or Service(s). If we are required to make any deductions or withholding of any Taxes for payments to us, then the amount of the payment to us will be increased by the amount necessary to pay such Taxes. You agree to indemnify us for all losses, costs, interest payments caused by your failure to pay such Taxes and any additional costs due to failure to file necessary returns or information with government authorities.



We retain all our rights under any law respecting set-off, deposits and banking matters even if they are not described in this Agreement.

### ***Special terms for Partnerships or Joint Ventures***

If you are a partnership or joint venture, each individual or entity which is a member of the partnership or joint venture (but not the limited partners of a limited partnership) is jointly and severally responsible for:

- all obligations to provide any money needed to fund the Business Account(s) or to purchase the Certificate(s) of Deposit or Term Deposit(s);
- all present and future transactions entered into by you or which may be entered into with us in your name, and every promissory note, bill of exchange, draft, cheque, instrument, receipt, security agreement, mortgage, lien, encumbrance, or charge issued by you;
- except for a lawful claim made before repayment, and subject to the applicable terms and conditions of the Certificate of Deposit or Term Deposit purchased, the whole or any part of the credit balance in your Business Account(s), Certificate(s) of Deposit or Term Deposit(s) may be withdrawn by any one of you, or applied by us to the debts of any one or more of you to us;
- the instructions given by any of you remain in force and effect and can be relied upon by us until we receive written notice of cancellation by any one or more of you; and
- this Agreement and any order or receipt signed or authorized by any one or more of you under this Agreement is binding on each of you and your legal or personal representatives.

### ***Special terms for Sole owners and Sole Proprietorships Sole Business Account(s), Certificate(s) of Deposit and Term Deposit Account(s) holders***

If a Business Account, Certificate of Deposit or Term Deposit is in your name only, you alone own the funds in the Business Account, Certificate of Deposit or Term Deposit and we will only take instructions from you. Upon your death, and subject to any rights we may have at law, the proceeds of the Business Account, Certificate of Deposit and/or Term Deposit will be disbursed to your estate or as otherwise required by law.

Note: The forgoing does not limit any rights we may have regarding the funds in the Business Account(s), Certificate(s) of Deposit or Term Deposit(s) that arise out of any lien, charge, pledge, security interest, security agreement, or any right of set-off, right to combine and/or consolidate accounts, any claim or any other right we may have whatsoever or to any step that we may take in view of any claim by any person including, without limitation, the surviving Business Account, Certificate of Deposit or Term Deposit holder(s).



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## *Personal Guarantee*

In this section “you” and “your” mean the owner, partner or guarantor and the business customer. If you are an incorporated entity, you agree to guarantee, and each of you are individually and personally responsible for, repayment of the business customer’s debts and obligations to Scotiabank arising under this Agreement, the Business Account Application, the Small Business Credit Agreement, the Small Business Commitment Letter, the Cash Management Services Agreement and Service Request & Pricing Schedules (if approved). This provision does not apply where your guarantee is documented in the Small Business Commitment Letter or by way of a separate guarantee. The guarantor also agrees to be bound by the terms and conditions in this booklet and in this Agreement, in particular “guarantee and obligations of the guarantor” the section of the Small Business Credit Agreement which outlines the guarantor’s debts and obligations.

# General Terms and Conditions Applicable To All Business Accounts, Certificate(s) of Deposit, Term Deposits and Services

## How We Can Contact Each Other

We will use the last address in our records or any other contact details given in your Business Account Application to contact you. You agree to tell us of any changes or additions to these details. We may contact you by mail, and by Electronic Communication (where available).

All statements we have agreed to give you will be sent to the address we have on file, and will be deemed to have been received by you on the fifth (5th) calendar day if sent by regular mail. If your address is in The Bahamas, Guyana, Antigua & Barbuda or Barbados, we consider you to have received the statement on the fourteenth (14th) day of it being mailed. Correspondence from the Bank is forwarded in envelopes marked with our return address.

You may contact us using the address and other contact details we give you when you open your Business Account, Certificate of Deposit, Term Deposit or Service. We will give you written notice if any of these change. We will communicate with you about your Business Account, Certificate of Deposit or Term Deposit in the manner that you have agreed to either by mail (at your last address in our records) or by Electronic Communication (where available). Any Electronic Communication that we receive from you or in your name will be considered duly authorized and binding on you and we will be authorized to rely and act upon such communication. In this regard:

- a) we will be entitled to rely upon any signature appearing on a facsimile transmission that purports to be your signature or the signature of your representative(s), and
- b) you recognize that possession or use of your Electronic Signature which includes but is not limited to your PIN, password, security code or access code, by any other person may result in that person having access to and being able to use the relevant means of Electronic Communication and we will not be liable for any loss, damage, expense or inconvenience that may result.

If you contact us by telephone, we will take reasonable steps to verify your identity before providing any Business Account, Certificate of Deposit and/or Term Deposit information.

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You agree that we may leave a message for you to contact us on an answering machine, through a facsimile machine or with a person answering the telephone and that we may use an automatic dialing system to give you recorded telephone messages.

Regarding the *Scotia OnLine* Internet Banking and Cash Management Services, you agree to contact us only through the *Scotia OnLine* Internet Banking website or by phone and not through any unsecure websites or other methods such as email. You also agree to receive communications regarding your Business Account(s), Certificate(s) of Deposit and Term Deposit(s) through the *Scotia OnLine* Internet Banking channel (where available) and you agree you will not attempt to circumvent receiving any messages. You are deemed to have received any Electronic Communication sent to you when they are delivered to you through the *Scotia OnLine* Internet Banking website.

### **How We Will Accept Instructions From You**

Any instructions to us may be given in person at your branch or delivered to your domicile branch in writing. We will accept instructions through the mail when they have been received by your domicile branch, but we are not responsible for any delays or failure of delivery of such instructions.

We may refuse to act upon any instruction, if in our opinion you have violated a provision of this Agreement, or to do so may be illegal or in breach of any obligation we owe to a third party, or cause us to fail to comply with any code, guideline or standard in force from time to time as it applies to us; or if we are in doubt as to the authenticity of the person giving such instruction, or if the instructions you provide are incomplete (including endorsements), illegible, or the information provided does not match the information in our records or this Agreement.

We may send you a confirmation that the instructions have been received and acted upon. We will also take reasonable steps to inform you when we have determined that we will not be following your instructions.

When you make a deposit at the branch that contains cheques and/or other documents (including without limitation traveler's cheques, certified cheques, personal or bank money orders), we will not verify the amount deposited at that time. However, the Bank will verify the deposit amount no later than the next Business Day. The Bank's determination will be considered correct.

You will ensure that all your instructions to us meet our requirements with regard to form, signature(s), verification and authorization. You must also give us specific authorization or additional information if reasonably required by us.

### **Electronic Communication**

If you also wish to give instructions by telephone, facsimile, e-mail or other means of Electronic Communication you agree to the following:

- that such instruction(s) will be accepted only for the Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Service(s) by the authorized

signing officers for such Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Service(s);

- you release us from any and all liability or claim for failure to act, execute or complete any instruction due to any reason beyond our reasonable control. You also agree that the Bank and any of its subsidiaries or their respective agents, employees, officers or directors will not be liable to you or the business for acting on your instructions or on instructions which appear to be from you, if those actions are in good faith;
- that you indemnify and save harmless the Bank and any of its subsidiaries and their respective agents, employees, officers and directors from and against any and all liabilities, obligations, losses, damages, penalties, actions, claims, judgments, suits, costs, expenses, disbursements of any kind or nature whatsoever which may be imposed upon, incurred by, or served against us or them, by reason of our or their actions taken in accordance with the instructions;
- that service fees will apply for actions taken by the Bank in response to your instructions. These fees may be deducted from any Business Account you have with the Bank, unless otherwise specified by you in your instructions; and
- you acknowledge that any Electronic Communication, including fax or email that is not encrypted: (i) is not secure, private and confidential, (ii) may not be reliable and may not be received by the intended recipient promptly or at all, and (iii) may be subject to interception, loss and alteration. You assume full responsibility for the risks associated with such Electronic Communication(s) and agree that we will not be responsible or liable for any loss or damage arising from any use of Electronic Communication, including, but not limited to, any loss or damage arising from any unauthorized access to, or interception, loss or alteration of such Electronic Communication.

Because we are concerned about the security of your Business Accounts, Certificates of Deposit, Term Deposits and your personal information, you agree that we are not obligated or required to act on the instructions if we doubt the identity of the source or authenticity of the person giving the instruction or if the transaction appears suspicious, questionable or unusual for your regular banking habits. We may ask you to give us certain information that will assist us in determining that you are the person giving the instruction.

### **Entering into Agreements through Electronic Communication**

You can opt to apply for and /or enter into agreements for certain business loans, mortgage products or credit accounts or any other agreement with the Bank through Electronic Communication.

You agree that where such applications and/or agreements require your handwritten signature or the handwritten signature of an authorized signing officer as proof of your consent and agreement to the terms and conditions thereof, such consent and/or agreement will be indicated and

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validly given through either of the following methods:

- (i) By you or an authorized signing officer sending an e-mail from the e-mail address, contained in our records, approving and/or accepting the contents of the e-mail message or any relevant attachments included ("E-mail Consent") ;
- (ii) By you or an authorized signing officer responding in the affirmative orally over the telephone ("Voice Consent") ;
- (iii) By you or an authorized signing officer affixing an electronically scanned version of your / his/ her handwritten signature(s) to the relevant document(s) or
- (iv) By using your Electronic Signature to access, approve, confirm or accept the terms applicable to any offer, product or Services or any relevant attachments referenced or included ("Electronic Consent")

You agree that each of these methods (i) - (iv) above, will satisfy any requirement for an original handwritten signature and shall have the same legal effect, validity or enforceability and will be deemed to be an original signature for all purposes. You also agree that:

- The Bank can electronically store Voice Consent, E-mail Consent, Electronic Consent and any documents that you or an authorized signing officer has affixed their scanned signature to. You agree that these forms of consent/agreement may be reproduced by the Bank and that any such reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceedings.;
- Agreements entered into through Electronic Communication, may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by both Parties;

If You are a company and you opt to enter into agreements through Electronic Communication, you represent and warrant that your constitutional documents do not preclude you from entering into agreements through the methods described in (i)-(iv) above i.e. E-mail Consent, Voice Consent, and affixing an electronically scanned version of a handwritten signature(s) to an agreement and/or application.

We can add, remove or change any of the actions or Electronic Communication methods allowed in this Agreement from time to time.

The Electronic Communication provisions in this Agreement will be in effect until you notify us in writing that you want to cancel providing us instructions by Electronic Communication.

### **Maintaining the security of your Accounts**

You agree to maintain security systems and the integrity of your Business Account(s), Certificate(s) of Deposit and Term Deposit account(s) and maintain security systems, procedures and controls to prevent and detect:

- theft of funds and instruments;
- forged, fraudulent and unauthorized instructions, instruments, electronic transfer of funds and transactions; and
- losses due to fraud, forgery or unauthorized access to a Business Account(s), Certificate(s) of Deposit, Term Deposit account(s) or Service(s) or other improper or unlawful actions.

Without limiting the generality of the foregoing, it is your responsibility to ensure:

- all cheques you issue are not easy to alter;
- all cheques and instruments that you issue are numbered sequentially;
- all cheques and instruments are secured in the same manner as large sums of cash;
- all cheques or other instruments, bank cards, access terminals, cheque imprinters, stamps, seals and facsimile signature devices and other equipment that might be used in giving instructions are kept in a secured locked safe, vault or other receptacle when not in use;
- access to passwords, procedures and other information required for giving instructions is not shared with or disclosed to anyone;
- periodic reviews are carried out to ensure cheques and other instruments are secure;
- periodic audits of cheques, instruments, bank cards, access terminals, cheque imprinters, stamps, seals and facsimile signature devices are performed;
- that the individual responsible for doing bank statement reconciliations is not the same individual who is responsible for the security of cheques or instruments or their preparation; diligently supervise and monitor the conduct and activities of all other persons having any role in the preparation of instructions, security relating to banking functions or other matters related to your Business Account(s), Certificate(s) of Deposit, Term Deposit account(s), or Service(s);
- all employees and agents having any role in preparing cheques or instruments and the business' bank statement reconciliation or other banking functions are supervised and monitored;
- that access to passwords, access codes, tokens, procedures and other information for giving instruction is not shared with or disclosed to anyone; and
- that procedures are in place to protect and regularly change passwords, access codes, tokens and update security measures that protect access to remote

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banking, online banking and telephone banking.

You agree to advise us of any suspicious circumstances that you are aware of about an item for deposit or other transaction involving your Business Account(s), Certificate(s) of Deposit or your Term Deposit(s) at the time of your instruction to us.

We and any of our officers, directors, employees and agents will not be liable to you or to any third party for any claims or losses you may suffer that result from any fraud caused by any of your employees or agents even if any of the above controls are not breached, even if you send us a notice within the thirty (30) day period advising us of such loss.

### **Payment Instructions**

You are responsible for settling payment of your instructions. Unless you have made specific arrangements with us, you will ensure that your Business Account(s) have sufficient cleared funds to settle any instructions at the time that you give us an instruction. We may, but are not required, to settle an instruction, if sufficient cleared funds are not available in your Business Account. The reported balances for your Business Account may include amounts which are not cleared funds. Cleared funds mean cash or any funds from any deposit which have been finally settled through the clearing system.

In deciding whether you have sufficient funds available in your Business Account for us to settle any instruction given to us, we may take into consideration:

- any earlier instruction(s) you have given us, and
- any outstanding authorizations we have given to third parties on your behalf such as merchants and retailers for any *Scotiabank* Banking Card, credit card and debit (POS) transactions and Automated Banking Services transactions.

We may not necessarily take into consideration any regular credits or deposits made into your Business Account or any credits or deposits that are received after we have decided to refuse to act upon your instruction.

We may process your payment instructions and any charges to your Business Account in any order convenient to us. Where more than one instruction is presented for payment on your Business Account, the order of processing may affect whether an instruction is honoured if there are insufficient cleared funds in the Business Account.

You acknowledge that we must clear instructions using a clearing system and are bound by the rules of any clearing system we use, including rules for endorsement of instructions, identity of payee and the time for final settlement. These rules affect our ability to honour your request to cancel instructions and the procedures we must follow to settle your instructions and clear funds for you. You acknowledge and agree that these rules shall in no way whatsoever operate or be construed to impair or limit any rights or remedies we have against you.

We reserve the right to clear and transfer instructions by whatever method we choose, whether they are drawn on your Business Account or negotiated by you.



You grant us sufficient time to settle all instructions. You acknowledge that we may, at our discretion, delay crediting your Business Account until we receive the cleared funds for the instruction.

You can only draw cheques on your Business Account(s) or on accounts held at other financial institutions and deposit items to your Business Account(s) that are encoded with magnetic ink character recognition or “MICR” and that are not damaged or mutilated.

If we cannot charge a payment, fee or expense to your Business Account, or if we ask you to, you must immediately pay us any amounts you are required to pay under this Agreement, plus interest at our published overdraft rate. Interest will be calculated on a daily basis and will be payable monthly or as we may otherwise require.

If an instruction on your Business Account requires settlement in a currency other than the currency of the Business Account, we may sell to you or purchase from you (as the case may be) the amount of the other currency required to settle your instruction. The sale or purchase will be at our prevailing customer rate of exchange in effect at the time of settling the transaction. Any costs for this exchange will be added to the sale amount payable by you or deducted from the purchase amount otherwise payable to you. We will charge the resulting total sale amount or credit the resulting net purchase amount to your Business Account. We will not assume any risks associated with foreign currency exchange gains or losses from cross-currency conversions resulting from foreign currency transactions. Any gains made or any losses incurred by you in connection with foreign currency transactions because of currency rate fluctuations between the date of an instruction and the date of settlement are for your account and shall be payable to you or by you (as the case may be). We are not responsible for any loss you may incur due to changes in foreign currency exchange rates or funds not being available due to foreign currency restrictions.

### **Our Payment Obligations To You**

The money we owe you because of your deposits to your Business Account(s) or funds in Certificate(s) of Deposit or Term Deposit(s) with us is payable only at the domicile branch where you maintain the Business Account(s), Certificate(s) of Deposit or Term Deposit(s). You are not entitled to ask for payment from the Bank's Head Office or Executive Office, parent company or from any branch, Scotiabank subsidiary or affiliate of the Bank nor can the proceeds of the Business Account(s), Certificate(s) of Deposit or Term Deposit(s) be paid at any other branch other than the branch where you maintain the Business Account, Certificate of Deposit or Term Deposit. While we may permit you to deposit and perform other banking transactions at other Scotiabank branches, through designated Scotiabank ATMs, Automated Banking Services, or other automated payment systems, this privilege is subject to restrictions



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and we reserve the right to limit or remove such functionality of services in our sole discretion.

The Bank will not take any responsibility or be liable to you or to any other person for any reduction in any Business Account, Certificate of Deposit or Term Deposit due to taxes or depreciation in the value of the funds credited to the Business Account or funds in a Certificate of Deposit or Term Deposit, devaluation of any currency or due to the unavailability of such funds, due to restrictions on transfer, payments or convertibility or due to requisitions, involuntary transfers, distress of any character, exercise of civil or military or usurped power, confiscation, expropriation, nationalization, governmental controls or regulations or embargos or any other cause whatsoever beyond the control of the Bank including, without limitation, acts of public enemy, terrorist acts, war, riots, fire, flood, strikes, explosions, hurricanes, earthquakes, tsunamis, pandemics, epidemics, illness, quarantine or travel restrictions that effect our employees or agents or disrupts our operations or any other act of God. In any event, you will not have any claim, action or other recourse to or against the Head Office, Executive Office, parent company of the Bank or against any of the Bank's subsidiaries other than where the Business Account, Certificate of Deposit or Term Deposit is maintained and the assets of such branch. Access to your Business Account(s), Certificate(s) of Deposit and Term Deposit(s)

Access to your Business Account and transactions may be subject to daily limits or other limits set by us. We will tell you the limits from time to time.

We can require you to go to the branch where you maintain your Business Account, Certificate of Deposit or Term Deposit to do any transaction relating to your Business Account, Certificate of Deposit or Term Deposit.

Where available, we may allow you access to your Business Account, Certificate of Deposit and/or Term Deposit account and conduct transactions through other channels, such as telephone banking or online banking, subject to the following:

- if your Business Account, Certificate of Deposit or Term Deposit account is accessed by using your *Scotiabank* Banking Card and personal identification number (PIN), your transactions are also governed by the terms of the *Scotiabank* Cardholder Agreement, and
- if your Business Account, Certificate of Deposit or Term Deposit account is accessed by telephone, computer or any other electronic access device that we allow, your transactions are also governed by the terms in the "How we will accept instructions from you" section as it relates to Electronic Communications that are contained in this booklet.

You acknowledge that nothing in this Agreement, in the Certificate of Deposit Confirmation, in the Term Deposit Schedule or in any other agreement between you and us, will prevent us from restricting access to your Business Account(s), Certificate(s) of Deposit or Term Deposit account(s), refusing to release funds in your Business Account(s), Certificate(s) of Deposit or Term Deposit account(s) if we are required to do so, or if, in our opinion, there

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is unusual, improper or suspicious activity in your Business Account(s), Certificate(s) of Deposit or Term Deposit account(s) or closing your Business Account(s), Certificate(s) of Deposit or Term Deposit account(s) for any reason, in our sole and complete discretion.

### **Your Payment Obligations To Us**

In return for our opening and keeping the Business Account(s), you agree to pay (and we can deduct from this Business Account) any fee(s) (including monthly fees), service charges and additional service charges for the Business Account, Certificate of Deposit, Term Deposit or Services.

You also agree that we can deduct from the Business Account, Certificate of Deposit or Term Deposit account you maintain with us:

- any debt, liability, obligation or any amount including fees, charges, costs and expense that you or any of you owe to us or to any of our subsidiaries without prior notice to any of you. If the debt, liability or obligation is in a currency other than the currency of the Business Account, Certificate of Deposit or Term Deposit account, we can use all or part of such credit balance to buy any currencies that may be necessary to pay the debt, liability or obligation;
- the amount you ask us to pay in any instruction;
- any government stamp duties, governmental fee or charge, value-added taxes or similar type of tax that is payable by us or by you to the local government and that may apply: (i) to this Agreement or any other agreement you have entered into with us, (ii) to any of the cheques drawn against your Business Account, (iii) to any instrument you deposit in your Business Account or that we negotiate on your behalf, or (v) to any foreign currency transaction we process on your behalf.
- the amount credited to your Business Account, Certificate of Deposit or Term Deposit or paid to you pursuant to any instruction, regardless of whether or not we have received settlement in respect of such instruction, if in our sole and absolute discretion such instruction is in any way whatsoever related to a fraudulent item, forged endorsement, or an item with an endorsement error, insufficient funds, account closed, funds not cleared, irregular signature or an item for which we may incur a loss if the payment or credit thereof is not reversed, together with all related costs associated with such a charge to your Business Account;
- the amount of any counterfeit or otherwise invalid currency deposited or transferred to your Business Account(s) or used to purchase a Certificate of Deposit or Term Deposit.

If any of the foregoing deductions create or increase an overdraft, in your Business Account you are still responsible for each charge, debit or liability until you pay us the amount owed in full. You promise to pay us immediately on request, the amount of any overdraft along with your overdraft charges then currently due.

We can at any time without prior notice refuse to honour an instruction for any proper or lawful reason, including garnishment, a trust provision or an instruction which would overdraw your Business Account or increase the overdraft in it. We retain this right even if we have previously chosen not to exercise it.

### **Fees**

We can provide you with details of the monthly fees and service charges when you request them. We may vary in our discretion all fees and charges payable by you. When we change our fees, charges, interest rates and other amounts, we will provide you with advance notice, in accordance with legal requirements to the address that we have on file for you. We may also include a notice in your statement, or post a notice in our branches, on our website, or on our ATM screens. We shall provide you with at least 30 days' notice before effecting any change to fees and charges payable by you. If your account is held with The Bank of Nova Scotia Jamaica Limited, we shall provide you with at least 45 days' notice before effecting any change to fees and charges.

### **Your Cheques May Be Returned**

You agree to complete your cheques so that they are not easy to alter and you must not put a date on your cheques which is after the date of signature. If you do, we will not be liable for any loss you incur as a result of us paying a cheque before the date you have put on it.

If we return cheques or regular payment orders or refuse to accept any other instructions we will tell you the reason for doing so. Charges for returned items or items we are obliged to pay, such as guaranteed or certified cheques, are available on request.

We may refuse to make any payment if you do not have cleared funds (or an agreed overdraft) available on the Business Day before the item(s) is presented for payment. In deciding whether you have funds available we may take into account any earlier instructions to make payments, any authorizations we have given for *Scotiabank* Banking Card transactions, regular payments from your Business Account, and any cheques we are treating as cleared. We will tell you if you can make payments from your Business Account against cheques which are not cleared. We may, at our discretion, not take into consideration regular credits paid into your Business Account or any credits received after the decision to refuse payment has been taken.

### **Check 21 Act**

U.S. federal law entitled the "Check 21 Act" allows U.S. banks to remove an original paper cheque from the cheque payment system, capture its image electronically and destroy the original item. As a result, if you negotiate a U.S. dollar cheque that is processed through the cheque payment system and it is subsequently returned, you might receive a paper reproduction of the electronic image, a "Substitute Check", instead of the original paper cheque. Under U.S. law, a Substitute Check is the legal equivalent of the original cheque, provided that it meets the conditions prescribed

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under the Check 21 Act.

### **Cheques you deposit may be returned**

The reasons a cheque you deposit may be returned by another financial institution may include, but are not limited to the following reasons:

- NSF or refer to drawer: means there is not enough money in the account on which the cheque is drawn.
- payment stopped: The owner of the account on which the cheque is drawn has requested the cheque not be paid.
- postdated: The date on the cheque is in the future from the date it was negotiated.
- stale dated: The date on the cheque is 6 months or longer from the date it was issued.
- account closed: The account on which the cheque is drawn is closed.
- funds not cleared: A “hold” has been placed on funds in the account on which the cheque is drawn.
- altered cheque: The cheque has been altered without authorization.
- counterfeit cheque: The owner of the account on which the cheque is drawn denies issuing the cheque.
- irregular signature: The signature on the face of the cheque does not match the usual signature of the person that it purports to be.
- forged signature: The signature on the face of the cheque is not the signature of the person that it purports to be.
- forged endorsement: The signature of the endorser of the cheque is not the signature of the person that it purports to be.
- words and figures differ: The written and numerical amounts on the cheque do not match.

If you deposit a cheque that was drawn in a foreign currency and the cheque is returned to us, you will be responsible to repay to us the local currency equivalent of that cheque at the time that it is returned to us.

You may stop payment of a cheque you have issued only if it has not been presented for payment (unless it has been certified or guaranteed in which case you may not stop payment). Once we have received an instruction to pay, you do not have the right to reverse, change, stop or cancel it unless we give our consent. We will not give such consent if we have already acted on the instruction.

When you cancel an instruction (which includes a stop payment or funds transfer), you must follow the procedures set out in any Service materials and any form which we give you. You must also communicate the cancellation to us in writing or by fax or through *Scotia OnLine* Internet Banking (if permitted) before final settlement. You acknowledge we must follow any applicable rules of the clearing system or electronic funds transfer systems and this may affect our ability to cancel an instruction.

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If you cancel an instruction, we will not be obliged to hold the funds or return the funds to you unless:

- we are able to have the instruction stopped and the cleared funds are returned to us; and
- the Service materials specify a procedure for you to cancel instructions and you correctly followed that procedure.

If any cheque you have negotiated is returned to us unpaid we will debit your Business Account, whether or not it creates or increases an overdraft, even if we have already allowed you to make a payment or take cash against such cheque.

Should the Bank, in its sole discretion, pay any cheque or payment order when there are insufficient funds in your Business Account, you agree to pay us the full amount of the overdraft on demand, and you also agree to pay interest on the overdraft at the maximum rate permitted by law or regulation from the date of the overdraft to the date of payment of the overdraft.

### **How to Request a Service**

In addition to submitting a Business Account Application to open a Business Account, Certificate of Deposit, Term Deposit or to subscribe for credit facilities, or Cash Management Services you must:

- complete and sign the Personal Net Worth Statement and any accompanying documents;
- sign a Service Request & Pricing Schedule in advance for each of the Services you wish to receive or change under this Agreement;
- for Trade Import/Export Products complete Section B of the Business Account Application and any accompanying product application that we provide to you; and
- change the temporary Electronic Signature that we provide to you to your own Electronic Signature.

You agree to make your own arrangements to provide the equipment and software you need to meet your desired levels of service, security and reliability. Equipment includes computer systems and telecommunication devices. All equipment and software must meet our requirements and specifications for the service we are providing. All purchase, installation and maintenance costs of the equipment and software will be at your expense.

We may, if we choose to, specify security procedures for a Service, which you must follow. You agree to keep any keys, Electronic Signature, security devices and verification procedures safe and confidential, and change them at least as often as the Service

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materials specify. We may establish a routine to verify the source and authenticity of instructions you give us and may verify an instruction before acting on it.

For all Service materials, including software we give or disclose to you, you agree:

- we and any lessor or licensor retain all ownership rights, including any copyright and patents;
- you will not disassemble or reverse engineer the software;
- will not copy, remove, modify, transfer, adapt or translate the Service materials without our consent;
- you will not disclose or make the same available to any person other than those required for the use or purposes as authorized by this Agreement unless our prior written consent is obtained for another use or purpose;
- when we stop providing a Service you will delete the applicable software from your computer hardware; and
- we may, but are not required to, confirm or obtain endorsements if we choose to do so. If a Service we provide involves accepting and processing unendorsed third party cheques, we may do so. You will reimburse us for any amount we cannot collect as a result of a problem in clearing an unendorsed third party cheque.

If Electronic Communication is part of a Service for a Business Account, Certificate of Deposit or Term Deposit (as applicable), you authorize us to accept electronic files and instructions as described in the Service Request & Pricing Schedule.

### **We May Use Agents and Transmission Services**

We may use any entity, correspondent third party or any funds transfer method or system, in our complete discretion, to process and settle your instructions or any other transactions on your behalf. Any entity, correspondent, third party or any funds transfer method or system that provides such services to you and that we use is/are considered your agent(s) and not an agent(s) of the Bank.

We are not liable for any act or omission of any entity, correspondent, third party or any funds transfer method or system or for any loss, destruction or delay in your funds transfer that is beyond our control. We are not responsible for any increase or reduction in the value of your Business Account, Certificate of Deposit or Term Deposit due to changes in foreign currency exchange rates or for the unavailability of funds due to foreign currency restrictions during that funds transfer.

You must promptly review any notice sent to you regarding a funds transfer transaction involving your Business Account, Certificate of Deposit or Term Deposit and you must notify us within twenty-four (24) hours of when you received or were deemed to have received notice, of any error or omission in the transaction. If you fail to promptly report such an error or omission within the specified period you relieve the Bank of any liability with respect to such discrepancies or objections.

### **Third Party Engagement as a Precondition of a Service or Product - Jamaica**

For Services offered by The Bank of Nova Scotia Jamaica Limited, we may require the service(s) or product(s) of a third party as a precondition to our provision of a service(s) or product(s) to you. All third parties used by us to fulfill this function and any other information pertinent to the delivery of our service(s) or product(s) will be notified to you through provisions for notice under this Agreement.



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## **You Must Verify Your Accounts, Certificate(s) of Deposit and Term Deposit(s)**

We will periodically provide you with statements of your Business Account(s) either in printed form or through *Scotia OnLine* Internet Banking.

You must promptly and regularly review each statement carefully to verify the entries in your Business Account, Certificate of Deposit as well as Term Deposit account transaction information in your Certificate of Deposit Confirmation or Term Deposit Confirmation and entries in your paper Business Account statements, electronic Business Account statement or paperless record keeping option (where available), the online or telephone transaction history, automated banking statement, passbook or in any other method you have chosen to review your Business Account, Certificate of Deposit and Term Deposit account transaction information.

If you believe there are any errors, omissions, unauthorized transactions or other discrepancies of any kind whatsoever, whether or not arising from unlawful or improper actions, in any of your Business Account(s), Certificate(s) of Deposit or Term Deposit account(s) transaction information or entries in any of your Business Account statements, Certificate of Deposit Confirmation form(s) or Term Deposit Confirmation form(s) you must tell us in writing within thirty (30) days from the date of the Business Account statement date, Certificate of Deposit Confirmation date or Term Deposit Confirmation date.

If you have a passbook account or if you have a paperless record-keeping option for your Business Account or if you use some other method of record keeping (such as online or telephone transaction history, you must tell us in writing of any errors, omission, unauthorized transaction or other discrepancy in your Business Account within (30) days of the date of the applicable entry.

If you do not tell us of any errors or omissions within that thirty (30) days, you have acknowledged that:

- a) you have accepted and agreed to the Business Account, Certificate of Deposit and/or Term Deposit transaction information and the entries in your paper Business Account statements, your electronic Business Account statement or paperless record-keeping option (where available), the online or telephone transaction history, automated banking statement or passbook, Certificate of Deposit Confirmation or Term Deposit Confirmation as complete, correct and binding on you whether or not you have reviewed your Business Account statement, your Certificate of Deposit Confirmation form or your Term Deposit Confirmation form, your online or telephone transaction history or updated your passbook,
- b) you cannot claim, for any purpose, that any entry on your Business Account statement, Certificate of Deposit Confirmation form or Term Deposit Confirmation form is incorrect and you will have no claim against us for reimbursement relating to an entry, even if the instruction charged to your Business Account was forged, unauthorized or fraudulent or improperly charged for any other reason whatsoever,



including, subject to applicable law, our gross negligence. After the applicable time period, we will be released from any and all claims whatsoever relating to your Business Account and Business Account statement, Certificate of Deposit Confirmation and Term Deposit Confirmation, whether for negligence (subject to applicable law), breach of contract, breach of trust, breach of fiduciary duty, conspiracy, unlawful interference or otherwise.

If you opted to receive electronic Business Account statements or if you subscribe to a paperless record-keeping option, you agree to go online and to check your statements regularly and at least once every thirty (30) days and, if the Business Account, Certificate of Deposit or Term Deposit account is a joint Business Account, joint Certificate of Deposit or joint Term Deposit, to deliver copies of the Business Account statements, Certificate of Deposit Confirmation(s) and Term Deposit Confirmation(s) to any co-owner who does not have access to *Scotia OnLine* Internet Banking.

We will tell you in the Service materials or by way of a notice if the nature of any Service requires more frequent statements, exchange of information, reports or verification than described generally for the Business Account. The account verification conditions described above will apply regardless of the reporting frequency, but the Business Account verification period will be the one described in the Service materials or notice and not the thirty (30) days verification period as above.

If you have elected to receive a paper statement from us, we will mail your Business Account(s) statement(s) to your latest address on our records or make them available for pick-up at the branch, or electronically, as may be agreed in writing from time to time. If you do not receive a statement, or pick it up as you have agreed to do, within ten (10) days after the end of the statement period, you must let us know within fifteen (15) days after the end of the statement period. If you do not let us know you did not receive the statement of Business Account within that time, then you will be deemed to have received the statement five (5) days after the mailing date, and you have a further thirty (30) days to review the statement and advise us of any error.

If you agree to receive Business Account(s) statement(s) through *Scotia OnLine* Internet Banking only, you are deemed to have received the Business Account(s) statement(s) twenty-four (24) hours after it is posted to *Scotia OnLine* Internet Banking.

### **Limitation of Liability and Indemnity**

We and our officers, directors, employees and agents are not liable for any loss, damage or inconvenience you suffer in connection with your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or the provision of any product or Service, or the refusal to provide any product or Service, except if it was caused by our gross negligence or willful misconduct (and then our liability is subject to the other provisions of this Agreement and other legal rights we have) or unless applicable laws

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or an industry code to which we have publicly committed requires otherwise. You acknowledge that this means, among other things, that we and our officers, directors, employees and agents are not liable for the following specific matters:

- honouring, or refusing to honour or cancel, a cheque or an instruction, for any reason;
- any delay in completing or failing to provide a product or Service for any reason even if this means you are unable to access funds in your Business Account, Certificate of Deposit or your Term Deposit account;
- any matter arising from your actions or your failure to perform your obligations properly under this Agreement even if you are not at fault; and
- a forged, unauthorized or fraudulent use of Services, cheque or instruction, or material alteration to a cheque or an instruction, even if you or we did or did not verify the signature, cheque or instruction or authorization.

If we are found to be liable for failing to perform a Service properly or if we are found liable for any loss or damage you suffer for any reason whatsoever, our liability will not be more than the direct cost to you of any loss of funds you suffered. This loss will be calculated from the time we should have made the funds available to you until the time we did make them available or until you should reasonably have discovered their loss, whichever is earlier.

Under no circumstances will we or any of our officers, directors, employees or agents be liable to you for any loss, damage including, without limitation, loss of profits or other amount resulting from:

- any loss, destruction or delayed delivery of any instrument or instruction, security, certificate or document of any kind while in transit or while in the possession or control of a person, entity, correspondent or third party other than the Bank,
- any instrument or instruction that is forged (in whole or in part), has a material alteration or is otherwise fraudulent or unauthorized, unless you prove: (i) it was made by a person who was at no time your director, officer, employee, agent or contractor, and (ii) its occurrence was unavoidable despite you having complied with all of your obligations under this Agreement and was otherwise beyond your control,
- any delay to complete or our failure to perform or fulfill any instruction or obligation as a result of our use of any funds transfer method or system or for any reason due to cause beyond our reasonable control,
- any accident, act of aggression, theft, loss or damage you may suffer while using any Automated Banking Services or other Service whether you are on our or other premises, or

- you giving us incomplete or incorrect information or instructions or if your instructions are not given to us sufficiently in advance to allow for timely settlement.

**UNDER NO CIRCUMSTANCES WILL WE OR ANY OF OUR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR LOSSES IN CONNECTION WITH YOUR BUSINESS ACCOUNT(S), CERTIFICATE(S) OF DEPOSIT, TERM DEPOSIT(S) OR THE PROVISION OF ANY SERVICE OR OUR REFUSAL TO PROVIDE ANY SERVICE, EVEN IF WE KNEW THAT ANY SUCH DAMAGE OR LOSS WAS LIKELY AS A RESULT OF OUR NEGLIGENCE (SUBJECT TO APPLICABLE LAW) OR THE NEGLIGENCE (SUBJECT TO APPLICABLE LAW) OF OUR EMPLOYEES, OFFICERS, DIRECTORS, AGENTS OR REPRESENTATIVES.**

**NOTHING IN THIS "LIMITATION OF LIABILITY" SECTION WILL OPERATE, BE CONSTRUED OR INTERPRETED IN ANY WAY TO IMPOSE ANY OBLIGATION ON US THAT WE HAVE NOT EXPRESSLY AGREED TO ASSUME IN THIS AGREEMENT OR BOOKLET OR LIMIT ANY RIGHTS WE HAVE UNDER ANY OTHER PROVISION OF THIS AGREEMENT, THIS BOOKLET OR AS OTHERWISE PROVIDED BY LAW.**

### **Indemnification**

You agree to release us, our officers, directors, employees and agents from liability, indemnify and hold us and our officers, directors, employees and agents harmless and compensate both us and our officers, directors, employees and agents and any third party providing services, processing or settling your instructions for any claim, proceeding, loss, damage, payment, penalty, fine, legal expense (based on the lawyer's fees charged to us, our officers, directors, employees and agents) and any other costs, as may be applicable, resulting from:

- any Service performed or refused,
- any cheque, instruction honoured, processed, negotiated, settled, changed, cancelled, reversed or refused,
- your failure to properly provide information or comply with this Agreement or any service agreement or follow any procedure(s) for a Business Account, Certificate of Deposit, Term Deposit or Service under this Agreement,
- our compliance with any lawful demand by a third party relating to the operation of your Business Account, Certificate or Term Deposit account, including, but not limited to, any demand made in connection with actual or potential legal proceedings, or
- other events of any kind whatsoever arising from us being your banker.

We will not take any responsibility for or be liable to you or any other person for any reduction in any Business Account or Term Deposit account due to taxes, depreciation in the value of the funds credited to the Business Account or Term Deposit account,

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devaluation of any currency or due to the unavailability of such due to restrictions on transfer, payment or convertibility, or due to any requisitions, involuntary transfers, distress of any character, exercise of civil or military or usurped power, confiscation, expropriation, nationalization, governmental controls or regulations, embargoes or any other cause whatsoever beyond our control including, without limitations, acts of a public enemy, terrorist acts, war, riots, fire, floods, strikes, explosions, hurricanes, earthquakes, tsunamis, pandemics, epidemics, illness, quarantine or travel restrictions that affect our employees or agents or disrupts our operations or any other act of God.

In any event, you will not have any claim, actions or other recourse to or against the Head Office or Executive Office, parent company of the Bank or against any of the Bank's branches, affiliates or subsidiaries other than the branch where the Business Account, Certificate of Deposit or Term Deposit is maintained and the assets of such branch.

We will let you know if a claim arises for which you have agreed to indemnify us. We will each cooperate in dealing with the claim, but any costs will be at your expense. You may defend a claim before making a payment to settle it as long as we are satisfied that this will not cause us to be exposed to further loss.

### **Combining accounts**

We may at any time, without prior notice to you, apply any credit balance you have in any Business Account, Term Deposit or any other obligation of any kind that we or any of our subsidiaries or affiliates may have to you (whether or not presently due), against any obligation of any kind that you may have to us or to any of our subsidiaries or affiliates (whether or not presently due). This right is in addition to any other rights that we may have with respect to set-off or combining accounts.

### **Complaint resolution**

At Scotiabank we are committed to providing the best possible service experience to our customers. We appreciate your business and want to share a long and satisfying relationship with you by ensuring that your personal information remains confidential and secure, adhering to appropriate banking practices and responding to your needs in a timely and effective manner.

#### **How to resolve your complaints**

If at any time we do not meet your expectations, or you are not satisfied with any aspect of our products or Services, please let us know. We aim to resolve your concerns as quickly as possible.

#### **Step one:**

Speak with a Scotiabank representative at the branch, contact centre or service centre where you do business.

#### **Step two:**

If your concerns are not resolved to your satisfaction, please speak directly

with the Manager who has the authority to resolve the majority of problems that arise.

**Step three:**

**If the Manager is unable to resolve your concerns satisfactorily, please contact the person listed on the country specific Scotiabank website.**

**Governing law**

Your Business Account(s), Term Deposit(s), the Service Request & Pricing Schedules, the Term Deposit Confirmation form(s) and this Agreement are governed by the laws of the country where your Business Account(s) and/or Term Deposit Account(s) is/are Domiciled.

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# Small Business Term Deposit Agreement

## **Your contract with us**

This Small Business Term Deposit Agreement, as amended from time to time, sets out the terms under which we provide Term Deposits and Certificates of Deposit, operate Term Deposit and Certificate of Deposit accounts, and provide certain financial Services and carry-out instructions. It applies to each Term Deposit and Certificate of Deposit (to the extent there is no conflict with any of the terms set out in the Certificate of Deposit Confirmation) that you have with us and it replaces all prior agreements, either written or oral, between you and us regarding Term Deposits and Certificates of Deposit.

If you have a Certificate of Deposit, the terms in the Certificate of Deposit Confirmation are in addition to the terms in this booklet and in this Small Business Term Deposit Agreement and they apply to you to the extent they do not conflict. If there is a conflict between the terms set out in the Certificate of Deposit Confirmation and any term in this booklet or Small Business Term Deposit Agreement, the terms of the Certificate of Deposit Confirmation shall prevail to the extent necessary to resolve the conflict.

When you signed the Term Deposit Confirmation or Certificate of Deposit Confirmation, you acknowledged having received, read and agreed to the terms and conditions in this Small Business Term Deposit Agreement and in the Certificate of Deposit Confirmation which govern your Term Deposit or Certificate of Deposit (as applicable) and the applicable Term Deposit Schedule. In addition, you are responsible for:

- any instruction given regarding the Term Deposit(s) or Certificate(s) of Deposit,
- any request made for service relating to the Term Deposit(s) or Certificate(s) of Deposit, and
- all your liabilities and obligations to us.

If, where applicable, you opened a Term Deposit or Certificate of Deposit over the telephone or through *Scotia OnLine* Internet banking (where available), your use of the Term Deposit or Certificate of Deposit account or our issuing you a Term Deposit Confirmation or a Certificate of Deposit Confirmation means that you agree with the following terms and conditions governing the Term Deposit(s) and Certificate(s) of Deposit.

## **Terms we use in this Small Business Term Deposit Agreement:**

Any terms that have not been defined in this Small Business Term Deposit Agreement have the same meaning as the terms that are set out in the “Terms we use in this Agreement” section of this booklet.

## **General information and terms and conditions that apply to all Term Deposits and Certificates of Deposit**

Depending on the country in which your Term Deposit or Certificate of Deposit account is Domiciled, the Bank may offer a variety of Term Deposits or Certificates of Deposit with different features and terms. Not all Term Deposit and Certificate of Deposit products and terms are available in every country. Minimum amount requirements apply to purchase a Term Deposit and Certificate of Deposit and vary depending on the type of Term Deposit or Certificate of Deposit and the country in which your Term Depositor Certificate of Deposit account is Domiciled. Please refer to your branch or the Term Deposit Schedule for the types of Term Deposits and Certificates of Deposit, the various terms and for the minimum amount requirements for the various Term Deposit and Certificate of Deposit products we offer in your local jurisdiction.

### **Access to your Business Account(s), Certificate(s) of Deposit and Term Deposit(s)**

Access to your Business Account and transactions may be subject to daily limits or other limits set by us. We will tell you the limits from time to time.

We can require you to go to the branch where you maintain your Business Account, Certificate of Deposit or Term Deposit to do any transaction relating to your Business Account, Certificate of Deposit or Term Deposit.

Where available, we may allow you access to your Business Account, Certificate of Deposit account or Term Deposit account and conduct transactions through other channels, such as telephone banking or online banking, subject to the following:

- if your Business Account, Certificate of Deposit account or Term Deposit account is accessed by using your *Scotiabank* banking card and personal identification number (PIN), your transactions are also governed by the terms of the *Scotiabank* Cardholder Agreement, and
- if your Business Account, Certificate of Deposit account or Term Deposit account is accessed by telephone, computer or any other electronic access device that we allow, your transactions are also governed by the terms of the section titled “How We Will Accept Instructions From You” contained in this booklet.

You acknowledge that nothing in this Small Business Term Deposit Agreement, in the Certificate of Deposit Confirmation or in any Term Deposit Schedule or in any other agreement between you and us, will prevent us from restricting access to your Business Account(s), Certificate of Deposit account(s) or Term Deposit account(s), refusing to release funds in your Business Account(s), Certificate of Deposit account(s) or Term Deposit account(s) if we are required to do so or if, in our opinion, there is unusual, improper or suspicious activity in your Business Account(s), Certificate of Deposit account(s) or Term Deposit account(s) or closing your Business Account(s), Certificate of Deposit account(s) or Term Deposit(s) for any reason, in our sole and complete discretion.



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## **Your Business Account, Certificate of Deposit account and Term Deposit account obligations**

You must:

- give us specific authorization or additional information if reasonably required by us, and
- ensure that all your instructions to us meet our requirements as to form, signatures, verification and authorization.

You agree to take all reasonable precautions to maintain the security and integrity of your Business Account(s), Certificate of Deposit account(s) and Term Deposit account(s). You also agree to maintain systems, procedures and controls to effectively prevent and detect:

- theft of funds and instruments,
- forged, fraudulent and unauthorized transactions, and
- losses due to fraud, forgery, unauthorized access to the Business Account(s), Certificate of Deposit account(s), Term Deposit account(s) or Service(s) or other improper or unlawful actions.

Without limiting the foregoing, you will:

- complete all cheques you issue so that they are not easy to alter,
- ensure that all cheques that you issue are numbered sequentially,
- ensure that all cheques are secured in the same way as large amounts of cash,
- ensure that cheque imprinters, facsimile signature devices and other equipment that might be used in giving instructions are effectively secured when not in use,
- ensure that access to passwords, procedures and other information required for giving instructions is not shared with or disclosed to anyone, and
- diligently supervise and monitor the conduct and activities of all other persons having any role in the preparation of instructions, security relating to banking functions or other matters relating to your Business Account(s), Certificate of Deposit account(s), Term Deposit account(s) or Service(s).

You agree to advise us of any suspicious circumstances that you are aware of about an item for deposit or other transaction involving your Business Account(s), Certificate of Deposit account(s) or your Term Deposit(s) at the time of your instruction to us.

## **Term Deposit or Certificate of Deposit Purchase**

You are responsible for settling payment of your instructions. Unless you have made specific arrangements with us, you will ensure that you have sufficient cleared funds to settle any instruction given to us before the instruction is given. We may, but are not required to, settle an instruction if sufficient cleared funds are not available in your Business Account. The reported balances for your Business Account may include amounts which are not cleared funds.



In deciding whether you have sufficient funds available in your Business Account for us to settle any instruction given to us, we may take into consideration:

- any earlier instructions you have given us, and
- any outstanding authorizations we have given to third parties on your behalf such as merchants and retailers for any of your Card, credit card and debit (POS) transactions and any Automated Banking Services transactions.

We may not necessarily take into consideration any regular credits or deposits made into your Business Account or any credits or deposits that are received after we have decided to refuse to act upon your instructions.

You acknowledge that we must clear instructions using a clearing system and are bound by the rules of any clearing system we use, including local and international clearing arrangements, rules for endorsement of instructions, identity of payee and the time for final settlement. These rules affect our ability to honour your request to cancel instructions and the procedures we must follow to settle your instructions and clear funds for you.

We reserve the right to clear and transfer instructions by whatever method we choose, whether they are drawn on your Business Account or negotiated by you. You grant us sufficient time to settle all instructions. You also acknowledge that we may delay crediting your Business Account with the funds or delay opening your Term Deposit or Certificate of Deposit until we receive the cleared funds for the instruction.

In certain countries, customers can only draw cheques on their Business Accounts and on accounts held at other financial institutions and deposit items to their Business Accounts that are encoded with magnetic ink character recognition or “MICR” and that are not damaged or mutilated.

In the event an instrument is used to purchase the Term Deposit or Certificate of Deposit and that instrument is subsequently returned to us unpaid for any reason whatsoever (e.g. insufficient funds, account closed, funds not cleared, irregular signature, etc.) the Term Deposit or Certificate of Deposit (as applicable) will be considered non-existent and this Small Business Term Deposit Agreement or Certificate of Deposit Confirmation (as applicable) will automatically be cancelled without any prior notice to you. In such circumstance, we will not be responsible to pay you any interest that may have accrued from the date the Term Deposit or Certificate of Deposit was issued until the date the instrument was returned to us unpaid and you agree that any charge(s) levied against us by the institution as it relates to the returned instrument must be reimbursed by you.

You also agree that we can deduct from any Business Account, Certificate of Deposit account or Term Deposit account you maintain with us:

- any fees (including monthly fees), service charges and any additional service charges associated with the Business Account, Certificate of Deposit, Term Deposit or Service,

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- any debt, liability, obligation or any amount including fees, charges, costs and expenses that you or any of you owe to us or owe to any of our subsidiaries without prior notice to any of you. If the debt, liability or obligation is in a currency other than the currency of the Business Account, Certificate of Deposit or Term Deposit, we can use all or part of such credit balance to buy any currencies that may be necessary to pay the debt, liability or obligation,
  - the amount you ask us to pay in any instruction,
  - the amount of any instruction we have paid to you or credited to your Business Account, Certificate of Deposit account or Term Deposit account and for which we do not receive settlement for any reason whatsoever (including, without limitation, fraud, forged endorsement, insufficient funds, account closed, funds not cleared, irregular signature) together with all related costs,
  - the amount of any counterfeit or otherwise invalid currency deposited or transferred to your Business Account or used to purchase a Term Deposit or Certificate of Deposit, and
  - any government stamp duties, governmental fee or charge, value-added taxes or similar type of tax that is payable by us or by you to the local government and that may apply: (i) to this Small Business Term Deposit Agreement, Certificate of Deposit Confirmation or any other agreement you have entered into with us, (ii) to any of the cheques drawn against your Business Account, (iii) to any instrument you deposit in your Business Account or that we negotiate on your behalf, or (iv) to any foreign currency transaction we process on your behalf.

If any of the above described deductions create or increase an overdraft in your Business Account, you are still responsible for each charge, debit or liability until you pay us in full. You promise to pay us on request, the amount of any overdraft along with your overdraft charges then current.

We can at any time without prior notice refuse to honour an instruction for any proper or lawful reason, including garnishment, a trust provision or an instruction which would overdraw your Business Account or increase the overdraft in it. We retain this right even if we have previously chosen not to exercise it.

## **Interest**

Interest accrues daily on your Term Deposit and Certificate of Deposit from the issue date up to the day before the Term Deposit or Certificate of Deposit matures. You do not earn any interest for the day the Term Deposit or Certificate of Deposit matures (i.e. the maturity date). Also, interest will be paid or compounded (where applicable) for the leap day in the case of a leap year.

For Term Deposits and Certificates of Deposit that pay interest during their term (monthly, quarterly, semi-annually or annually) the last interest payment is paid at the maturity date.

If the maturity date does not fall on a Business Day then the term of the Term Deposit or Certificate of Deposit will be extended to the next Business Day and interest will be paid up to the day before the new Term Deposit or Certificate of Deposit maturity date.

Compounding of interest (applies to Term Deposits and Certificates of Deposit where interest is reinvested only) adds the interest earned, after the first compounding period, to the principal amount of the Term Deposit or Certificate of Deposit. For subsequent compounding periods, the interest earned at the end of each compounding period is added to the book value of the Term Deposit or Certificate of Deposit (book value equals the principal amount plus compounded interest). This means that interest is earned on the interest. The value of a compounded Term Deposit or Certificate of Deposit is paid to you on the maturity date. Depending on the country in which your Term Deposit account or Certificate of Deposit account is Domiciled and whether the interest earned is to be reinvested (as indicated in your Term Deposit Confirmation form or Certificate of Deposit Confirmation form), the compounding period can be either monthly, quarterly, semi-annually or annually (where applicable).

No compounding of interest will apply if you chose to have the interest earned on your Term Deposit or Certificate of Deposit paid to your Business Account monthly, at the sub-term or annually.

For all currencies except US dollars, Dominican Pesos and Euros, interest is calculated by taking the number of days divided by 365 x the interest rate x the principal value. For US dollars, Dominican Pesos and Euros, interest is calculated by taking the number of days divided by 360 x the interest rate x the principal value. In the case of a leap year and if you have a Term Deposit or Certificate of Deposit with a term of 1 year or more, you will also earn interest for one additional day. The principal value is the issue amount plus any interest that has been compounded on prior anniversaries. Interest is accrued daily on your Term Deposit and Certificate of Deposit from the issue date up to, but not including, the maturity date. During a leap year, interest is earned on the leap day.

### **Payments**

All payments including interest payments and payment of maturing Term Deposits and Certificates of Deposit will be made either by: credit to your Scotiabank Business Account. Note: the Scotiabank Business Account must be located in the same country where you purchased or maintain the Term Deposit(s) or Certificates of Deposit, manager's cheque or Bank draft sent by regular mail to the address we have on record or to any other address specified by you in writing, or wire payment.

Note: If you select your interest or maturity payment to be paid to your Scotiabank Business Account, the payment will be credited to your Business Account on the interest payment date or the maturity date. If you request that the interest or maturity payment be paid by Bank draft or wire payment, you acknowledge and agree that such payment methods are subject to the Bank's regular fees and charges in effect at the time we make the payment.

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If you select your interest or maturity payment to be paid to you by manager's cheque, Bank draft or by wire payment, the manager's cheque, Bank draft or wire payment will be dated and issued for the day of the actual payment due date.

### **Automatic Renewals**

Maturing Term Deposits and Certificates of Deposit will be automatically renewed in accordance with the written renewal instructions that you have given us prior to maturity. If you have not given us any instructions, your funds will automatically be reinvested in the same option and term as your current Term Deposit or Certificate of Deposit at our then current interest rate(s), unless you are advised otherwise by the Bank in writing, at least 30 days in advance of the Term Deposit or Certificate of Deposit maturity date (e.g. should a Term Deposit or Certificate of Deposit product no longer be available).

You can give us renewal instructions or "pre-booking" instructions 30 days prior to maturity, up to and including the maturity day of the Term Deposit or Certificate of Deposit only if your maturity instruction is to renew principal or to renew principal & interest. If the maturity instruction we have on file is to credit the funds to your Scotiabank Business Account or to issue you a cheque, you will not be able to perform pre-booking on the day of maturity.

Note: The interest rate at the time the "pre-booking" instruction is taken will apply to the new Term Deposit or Certificate of Deposit even if the interest rate is higher at the time your Term Deposit or Certificate of Deposit matures.

### **Early Redemption**

Cashable Term Deposits can be redeemed before maturity in accordance with the terms and conditions set out in the Term Deposit Confirmation form.

Cashable Term Deposits cannot be redeemed (either fully or partially) before 31 days of the issue date. Cashable Term Deposits can be redeemed in full only after 31 days of the issue date. After 31 days, and if less than a full term, interest will be calculated based on the number of days held in accordance with the early redemption rate(s) set out in the Term Deposit Confirmation.

You are required to redeem and withdraw the entire amount of the Term Deposit if you decide to redeem the Cashable Term Deposit before maturity. You cannot redeem a partial amount. In other words, partial withdrawals are not permitted for any of the Term Deposit products including the Cashable Term Deposit products.

Fixed Term Deposits are not redeemable (either fully or partially) prior to maturity.

You can obtain more information about the Cashable Term Deposit products and their early redemption features by referring to your Term Deposit Schedule.

Note: In some countries, Certificates of Deposit may be fully or partially withdrawn before maturity, subject to penalties for early redemption and subject to certain

restrictions on the amount, balance remaining and rate of interest, as set out in the Certificate of Deposit Confirmation form. No interest will be paid on amounts withdrawn within 30 days of receipt.

### **Deposit Insurance**

Depending on the country in which your Term Deposit account or Certificate of Deposit account is Domiciled, your Term Deposit account or Certificate of Deposit account may be insured by a deposit insurance scheme. As coverage may not be available in every country and the amount and term may vary by country, please speak with your Scotiabank representative for details.

### **Signing Arrangements**

The signing arrangement for your Term Deposit or Certificate of Deposit will be indicated in the Term Deposit Confirmation form or Certificate of Deposit Confirmation form and it will determine from whom we will accept instructions regarding the Term Deposit or Certificate of Deposit and you will be bound by any instructions given to us by the designated signing authority(ies). Any designated signing authority will remain in force and can be relied upon by us until we receive written notice of change for the designated signing authority(ies).

We will send notices in accordance with the “Changes and notification of changes” section of this Small Business Term Deposit Agreement to the primary Term Deposit account holder<sup>1</sup> or Certificate of Deposit account holder<sup>1</sup> only at the last address we have on file and we consider notice to the primary Term Deposit account holder or primary Certificate of Deposit account holder as having given notice to all of you including any joint Term Deposit account holders or joint Certificate of Deposit account holders. If the Term Deposit account or Certificate of Deposit account is held jointly, you agree that all notices will be provided to the primary Term Deposit account holder or to the primary Certificate of Deposit account holder and such notices will be deemed to have been received by you when provided to the primary Term Deposit account holder or to the primary Certificate of Deposit account holder. As primary Term Deposit account holder or primary Certificate of Deposit account holder, you also agree to give a copy of all notices you have received from us to all joint Term Deposit account holders or joint Certificate of Deposit account holders.

Because legal responsibilities and tax consequences vary depending on the ownership and signing arrangements, you may want to discuss these matters with your legal and/or tax advisor when establishing a Term Deposit or Certificate of Deposit with multiple account holders. We assume no responsibility for any claim or loss whatsoever arising from or relating to the signing arrangement selected or the ownership associated with that signing arrangement.

<sup>1</sup>This refers to the first customer listed in the Term Deposit Confirmation form or in the Certificate of Deposit Confirmation form.

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## **“Any to sign”**

If the signing arrangement you selected as indicated in the Term Deposit Confirmation form or Certificate of Deposit Confirmation form is “any to sign”, we will accept instructions from any one or more of you as if you were the sole owner of the Term Deposit account or Certificate of Deposit account, without the signature or consent of the other(s) Term Deposit account owner(s), Certificate of Deposit account owner(s) or authorized signatories and without any liability to us. For example:

- we can take instructions from any one or more of you regarding your Term Deposit account or Certificate of Deposit account.
- we can deposit all interest payments and Term Deposit and Certificate of Deposit proceeds in your Business Account.
- except for a lawful claim made before repayment and subject to the applicable terms and conditions of the Term Deposit or Certificate of Deposit purchased, the Term Deposit or Certificate of Deposit may be withdrawn by any one or more of you. We can also apply the Term Deposit or Certificate of Deposit to any of the debts any one or more of you owe to us.

Note: We cannot change the Term Deposit or Certificate of Deposit ownership.

Note: The foregoing does not limit any rights we may have regarding the funds in the Term Deposit account and/or Certificate of Deposit account that arise out of any lien, charge, pledge, security interest, security agreement, or any right of set-off, right to combine and/or consolidate accounts, any counterclaim or any other right we may have whatsoever or to any step that we may take in view of any claim by any person including, without limitation, any other Term Deposit account holder(s) and/or Certificate of Deposit account holder(s).

## **“All to sign” or “multiple signatures”**

If the signing arrangement you selected as indicated in the Term Deposit Confirmation form or Certificate of Deposit Confirmation form is “all to sign”, we will only accept instructions from all of you. If the signing arrangement is “multiple signatures”, we will only accept instructions from the designated signatories in the combination(s) you specified in the Term Deposit Confirmation form or Certificate of Deposit Confirmation form. Under either type of signing arrangement, we can deposit in your Business Account all Term Deposit and Certificate of Deposit interest payments and proceeds.

Note: The foregoing does not limit any rights we may have regarding the funds in the Term Deposit account and/or Certificate of Deposit account that arise out of any lien, charge, pledge, security interest, security agreement, or any right of set-off, right to combine and/or consolidate accounts, any counterclaim or any other right we may have whatsoever or to any step that we may take in view of any claim by any person including, without limitation, any other Term Deposit account holder(s) and/or Certificate of Deposit account holder(s).



## **Release of funds on death**

For sole proprietorships, we will require estate documentation to release funds from any Term Deposit or Certificate of Deposit upon death of a Term Deposit account holder or Certificate of Deposit account holder. Estate documentation means any document that may be required by us in our sole and absolute discretion and may include a death certificate, probated will, notarized will or any other legal process used to determine the validity of the will and the distribution of a deceased person's assets.

In the event of any dispute regarding the release of funds upon the death of a Term Deposit account holder or Certificate of Deposit account holder, we may, subject to applicable law, pay the amounts held in any Term Deposit or Certificate of Deposit into court and recover any expenses, including legal fees, incurred by us from the funds in the Term Deposit account or Certificate of Deposit account.

We are authorized to release any information about the Term Deposit(s) and Certificate(s) of Deposit to the estate representative of the deceased Term Deposit account holder or Certificate of Deposit account holder up to the date of death.

## **Appointing an attorney**

You may appoint one or more attorney(s) to act for you regarding your Term Deposit account(s) or Certificate of Deposit account(s). However, we can refuse to accept the appointment, in our sole discretion, if it is not satisfactory to us or we may refuse to honor any Term Deposit or Certificate of Deposit transaction made by an attorney.

If your Term Deposit account or Certificate of Deposit account is held jointly, we may also refuse to honor any Term Deposit or Certificate of Deposit transaction made by an attorney unless their appointment regarding the joint Term Deposit account or joint Certificate of Deposit account has been agreed upon in writing by all Term Deposit account holders or Certificate of Deposit account holders.

An attorney will have access to the previous Term Deposit or Certificate of Deposit history and all transaction details for the Term Deposit account or Certificate of Deposit account and you agree to this access being provided.

## **Where Term Deposits and Certificate of Deposits are Payable**

Term Deposits and Certificates of Deposit are payable only at the branch where you maintain the Term Deposit or Certificate of Deposit. You are not entitled to ask for payment from the Bank's Head Office or Executive Office, parent company or from any branch, Scotiabank subsidiary or affiliate of the Bank nor can the Term Deposit or Certificate of Deposit be paid at any other branch other than the branch where you maintain the Term Deposit or Certificate of Deposit.

## **Foreign currency Term Deposits and Certificates of Deposit**

If you purchase a Term Deposit or Certificate of Deposit with an instrument drawn in a foreign currency and the instrument is returned to us, you will be responsible to

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repay to us the local currency equivalent of that instrument at the time that it is returned to us.

We are not responsible for any increase or reduction in the value of the instrument or your foreign currency Term Deposit or Certificate of Deposit due to changes in foreign currency exchange rates or for the unavailability of funds due to foreign currency restrictions.

If your Term Deposit or Certificate of Deposit with us is in a foreign currency, we can use any third party to act as your agent for any instructions, funds transfer or other transactions for your Term Deposit or Certificate of Deposit. We are not liable for any act, failure to act or omission of any third party or for any loss, destruction or delay beyond our reasonable control.

We may, in our discretion, allow instructions to be given on your Term Deposit account or Certificate of Deposit account in a currency other than the currency of the Term Deposit or Certificate of Deposit. If we do, and if an instruction on the Term Deposit or Certificate of Deposit requires settlement in a currency other than the currency of the Term Deposit or Certificate of Deposit (for example, the currency of the Business Account where the funds are to be deposited to or debited from is different than the currency of the Term Deposit or Certificate of Deposit), we sell to you or purchase from you (as the case may be) the amount of the other currency required to settle your instruction(s). The sale or purchase of the foreign currency will be at our prevailing customer selling or buying rate in effect at the time of settling the transaction. Foreign exchange costs will be added to the sale amount payable by you or deducted from the purchase amount otherwise payable to you. We will charge or credit you or your Business Account with the amount of the sale or with the amount of the purchase (as the case may be).

We will not assume any risks associated with foreign currency exchange gains or losses from cross-currency conversions resulting from foreign currency transactions. Any gains made and any losses incurred by you in connection with foreign currency transactions because of currency rate fluctuations between the date of an instruction and the date of settlement are for your account and shall be payable to you or by you (as the case may be).

### **Combining accounts**

We may at any time, without prior notice to you, apply any credit balance you have in any Business Account, Certificate of Deposit, Term Deposit or any other obligation of any kind that we or any of our subsidiaries or affiliates may have to you (whether or not presently due), against any obligation of any kind that you may have to us or to any of our subsidiaries or affiliates (whether or not presently due). This right is in addition to any other rights that we may have with respect to set-off or combining accounts.

### **Limitation of Liability**

We are not liable to you for any loss, damage or inconvenience you suffer in connection with your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or the provision



of any Service or the refusal to provide any Service, except if it was caused by our gross negligence or willful misconduct (and then our liability is subject to the other provisions of this Small Business Term Deposit Agreement and other legal rights we have) or unless applicable laws or an industry code to which we have publicly committed requires otherwise.

You acknowledge this means, among other things, that we are not liable for the following specific matters:

- any delay in completing or failing to provide a Service for any reason even if this means you are unable to access funds in your Term Deposit account, Certificate of Deposit account or your Business Account,
- a forged, unauthorized or fraudulent use of Services, instruction or material alteration to an instruction, even if you or we did or did not verify the signature, instruction or authorization.

If we are found to be liable for any loss or damage you suffer for any reason whatsoever, our liability will not be more than the direct cost to you of any loss of funds you suffered. This loss will be calculated from the time we should have made the funds available to you until the time we did make them available or until you should reasonably have discovered their loss, whichever is earlier.

Under no circumstances will we be liable to you for any loss, damage or other amount resulting from:

- any loss, destruction or delayed delivery of any instrument or instruction, security, certificate or document of any kind while in transit or while in the possession or control of a person, entity, correspondent or third party other than the Bank,
- any instrument or instruction that is forged (in whole or in part), has a material alteration or is otherwise fraudulent or unauthorized, unless you prove: (i) it was made by a person who was at no time your director, officer, employee, agent or contractor, and (ii) its occurrence was unavoidable despite your having complied with all of your obligations under this Small Business Term Deposit Agreement and Certificate of Deposit Confirmation (as applicable) and was otherwise beyond your control,
- any delay to complete or our failure to perform or fulfill any instruction or obligation as a result of our use of any funds transfer method or system or for any reason due to any cause beyond our reasonable control,
- any accident, act of aggression, theft, loss or damage you may suffer while using any Automated Banking Services or other Service whether you are on our or other premises, or
- you giving us incomplete or incorrect information or instructions or if your instructions are not given to us sufficiently in advance to allow for timely settlement.

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UNDER NO CIRCUMSTANCES WILL WE BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR LOSSES IN CONNECTION WITH YOUR BUSINESS ACCOUNT(S), CERTIFICATE(S) OF DEPOSIT, TERM DEPOSIT(S) OR THE PROVISION OF ANY SERVICE OR OUR REFUSAL TO PROVIDE ANY SERVICE, EVEN IF WE KNEW THAT ANY SUCH DAMAGE OR LOSS WAS LIKELY AS A RESULT OF OUR NEGLIGENCE (SUBJECT TO APPLICABLE LAW) OR THE NEGLIGENCE (SUBJECT TO APPLICABLE LAW) OF OUR EMPLOYEES, AGENTS OR REPRESENTATIVES.

NOTHING IN THIS "LIMITATION OF LIABILITY" SECTION WILL OPERATE, BE CONSTRUED OR INTERPRETED IN ANY WAY TO IMPOSE ANY OBLIGATIONS ON US THAT WE HAVE NOT EXPRESSLY AGREED TO ASSUME IN THIS SMALL BUSINESS TERM DEPOSIT AGREEMENT OR BOOKLET OR LIMIT ANY RIGHTS WE HAVE UNDER ANY OTHER PROVISION OF THIS SMALL BUSINESS TERM DEPOSIT AGREEMENT, THIS BOOKLET OR AS OTHERWISE PROVIDED BY LAW.

### **Indemnification**

You agree to release us from liability, indemnify and hold us harmless and compensate both us and any third party providing services, processing or settling your instructions for any claim, proceeding, loss, damage, payment, penalty, fine, legal expense (based on the lawyer's fees charged to us) and any other costs, as may be applicable, resulting from:

- any service performed or refused,
- any instruction honoured, processed, negotiated, settled, changed, cancelled, reversed or refused,
- your failure to properly provide information or comply with this Small Business Term Deposit Agreement or any service agreement,
- our compliance with any lawful demand by a third party relating to the operation of your Business Account, Certificate of Deposit account or Term Deposit account, including, but not limited to, any demand made in connection with actual or potential legal proceedings, or
- other events of any kind whatsoever arising from us being your banker.

We will not take any responsibility for or be liable to you or any other person for any reduction in any Business Account, Certificate of Deposit account or Term Deposit account due to taxes, depreciation in the value of the funds credited to the Business Account, Certificate of Deposit account or Term Deposit account, devaluation of any currency or due to the unavailability of such funds due to restrictions on transfer, payment or convertibility, or due to any requisitions, involuntary transfers, distress of any character, exercise of civil or military or usurped power, confiscation, expropriation, nationalization, governmental controls or regulations, embargoes or any other cause whatsoever beyond our control including, without limitation, acts of a public enemy,

terrorist acts, war, riots, fire, floods, strikes, explosions, hurricanes, earthquakes, tsunamis, pandemics, epidemics, illness, quarantine or travel restrictions that affect our employees or agents or disrupts our operations or any other act of God.

In any event, you will not have any claim, action or other recourse to or against the Head Office or Executive Office, parent company of the Bank or against any of the Bank's branches, affiliates or subsidiaries other than the branch where the Business Account, Certificate of Deposit or Term Deposit is maintained and the assets of such branch.

### **Communicating with each other**

You can contact us by using the address and other contact details we give you when you open your Term Deposit or Certificate of Deposit. We will let you know if any of these details change. If you contact us by telephone, we will take reasonable steps to verify your identity before providing any Term Deposit or Certificate of Deposit information.

We will communicate with you about your Term Deposit or Certificate of Deposit activity in the manner that you have agreed to either by mail (at your last address in our records) or by Electronic Communication (where available).

Any Electronic Communication that we receive from you or in your name will be considered duly authorized and binding on you and we will be authorized to rely and act upon such communication. In this regard:

- a) we will be entitled to rely upon any signature appearing on a facsimile transmission that purports to be your signature or the signature of your representative(s), and
- b) you recognize that possession or use of your Electronic Signature, PIN, password, security code or access code by any other person may result in that person having access to and being able to use the relevant means of Electronic Communication and we will not be liable for any loss, damage, expense or inconvenience that result.

### **Account closure**

- a) Without Notice: We can close your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or terminate any of the Services we provide to you, without prior notice to you, in any circumstance in which we consider it reasonable to do so including, without limitation, in the following circumstances:
  - if we have reasonable grounds to believe that you are using a Business Account(s), Certificate of Deposit, Term Deposit account for any unlawful, fraudulent, illegal or improper purposes or otherwise in violation of applicable laws relating to anti-corruption and bribery, money laundering, terrorist financing, or laws relating to Sanctions.
  - if you do not provide us with any documentation required to open, operate or maintain your account;

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- if we have reasonable grounds to believe or suspect that you are engaged in any unlawful purpose or otherwise involved in the violation of any law or regulation including laws relating to anti-corruption, bribery, money laundering, terrorist financing and Sanctions;
  - if you otherwise are deemed by us in our sole discretion to pose any risk to our business, personnel, operations, or reputation;
  - if we have reasonable grounds to believe that it is necessary to terminate our relationship with you in order to protect our customers or employees from physical harm, harassment or other abuse,
  - if we have reasonable grounds to believe that you, for the purpose of opening your Business Account, Certificate of Deposit account or Term Deposit account, knowingly made a material misrepresentation in the information you have provided to us, or
  - if we are instructed to do so by any government agency or regulatory body that has authority over us.
- b) With Notice: We can close your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or cancel any of the Services we provide to you, without reason, by giving you thirty (30) days written notice. To the extent applicable, your obligations to us continue if we close your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or cancel a Service(s). You are not relieved of your obligations to us regarding any terminated Business Account(s), Certificate(s) of Deposit, Term Deposit(s) or Service(s) until your obligations to us have been satisfied in full.

### **Changes and notification of changes**

We can add, remove or change any of the terms and conditions of the Small Business Term Deposit Agreement or Term Deposit Schedule from time to time.

We may from time to time make changes to interest rates, products and other operating conditions for Business Accounts, Certificate(s) of Deposit and Term Deposits including this Small Business Term Deposit Agreement and Term Deposit Schedule. We will notify you of changes in accordance with legal requirements.

We will notify you of changes in any of the following ways:

- a notice addressed to you at your last address in our records,
- a notice prominently displayed at our ATMs or on our ATM screens,
- an announcement through the voice-response-unit (VRU),
- a notice on the Scotiabank website,
- a notice in our branches, or
- a notice in your statement.

We consider you to have received the written notice: (i) on the same day that it was sent if sent by fax or by Electronic Communication, (ii) on the day it was hand delivered, (iii) when it is posted in our branches, posted on our website, displayed at our ATMs or on our ATM screens or announced on our voice-response-unit, (iv) printed in your statement, or (v) on the fifth (5th) calendar day if sent by regular mail. If your address is in The Bahamas, Guyana, Antigua & Barbuda or Barbados we consider you to have received the notice on the fourteenth (14th) day of it being mailed.

If you use the Business Account or if you have funds on deposit in the Business Account or in a Term Deposit account or Certificate of Deposit account or use the Service after our notifying you of a change, posting a notice of such change or after the effective date of a change, it means that you have agreed to the change and that you accept the new terms and conditions regarding the Business Account, Term Deposit, Certificate of Deposit or Service and the Small Business Term Deposit Agreement or Term Deposit Schedule as amended. If you do not agree with any of the changes made, you must immediately stop using the Business Account, Term Deposit, Certificate of Deposit or Service, and notify us that you are terminating this Small Business Term Deposit Agreement and close the Business Account(s), Certificate of Deposit account(s) and Term Deposit account(s) (where permitted).

If your account is held with The Bank of Nova Scotia Jamaica Limited, we shall provide you with at least 45 days' prior notice before any changes to the Small Business Term Deposit Agreement come into effect.

### **Non-residents**

If you are a non-resident of the country where your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Service(s) are Domiciled, you are advised that off-shore banking transactions may have tax consequences in the country where your Business Account(s), Certificate(s) of Deposit, Term Deposit(s) and/or Service(s) are Domiciled and/or in your home country. Accordingly, if you are a non-resident, you should obtain prior written advice for such transactions from qualified tax advisors in your home country or where the Business Account(s), Certificates of Deposit, Term Deposit(s) and/or Service(s) are located. We may request a copy of such advice prior to opening a Business Account, Certificate of Deposit or Term Deposit or providing you with a Service or anytime after having opened a Business Account, Certificate of Deposit, Term Deposit or Service.

### **Governing Law**

Your Business Account(s), Certificate(s) of Deposit, Term Deposit(s), the Term Deposit Schedule, the Term Deposit Confirmation and Certificate of Deposit Confirmation form(s) and this Small Business Term Deposit Agreement are governed by the laws of the country where your Business Account(s), Certificate(s) of Deposit and/or Term Deposit account is (are) Domiciled.

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# Cash Management Services Agreement

## General Terms

If you request Cash Management Services, you will appoint and delegate at least two Company System Administrators (CSAs) and provide the relevant information in the Service Request & Pricing Schedule. If you chose to appoint only one CSA, you must acknowledge this on the Service Request & Pricing Schedule.

You will be solely responsible for the accuracy and completeness of all information furnished to us in the Service Request & Pricing Schedule(s).

If you are approved for Cash Management Services, we shall provide you with:

- various business banking services specifically requested by you in the Service Request & Pricing Schedule(s) via access through the *Scotia OnLine* Internet Banking;
- a reasonable number of copies of the quick reference guide for each of the Services we have agreed to provide you and we shall instruct a reasonable number of your personnel in the use of the applicable Services. You will comply with the procedures and instructions in the Quick Reference Guide or otherwise issued by the Bank from time to time;
- a *Scotiocard* Banking Card number, initial user ID(s) and password(s) for each of your CSA(s) to obtain access to the Service(s) and instructions on how to change the password(s); and
- security tokens, as required, for use by Authorized User(s) who approve high-value third-party transactions.

You will be responsible for implementing all necessary procedures and guidelines for maintaining the confidentiality of all passwords and safe-keeping of security tokens to ensure that only individuals authorized by you have access to the Services and to such passwords.

You agree to make your own arrangements to obtain, install and maintain all at your own expense, the equipment, including systems and telecommunications devices and software required in order to operate the Services that you consider necessary to meet your desired levels of service, security and reliability and which meet the operating capabilities and specifications that we establish from time to time.

You agree and authorize the Bank to provide to any company that you have so designated in the Cash Management Services – Service Request & Pricing Schedule, with access through computer terminals to your Business Account(s) and banking information, and you authorize these companies to give instructions to the Bank, including giving orders for the transfer of funds from your Business Account(s).

CSAs will each be assigned an initial sign on user ID and password, and will be required to:

- change the initial password we provide, select and provide answers to security questions and create a new personal access code, as required, upon initial sign on;
- delegate, from time to time, the person(s) authorized (“Authorized Users”) to conduct your banking business and to give orders for the transfer or payment of the customer’s funds and for the accessing of information concerning your Business Accounts and other accounts accessible through the Service using computer terminals;
- establish, modify, delete or suspend service entitlements, approval levels and limits for transactions and approvals for Authorized Users; and
- issue and reset passwords for Authorized Users to use the Services.

Unless we agree in writing to the contrary, dual authorization of two CSAs is required to perform the above noted functions.

You will assume full responsibility for maintaining the confidentiality of all Electronic Signatures and ensuring that knowledge of such Electronic Signatures is limited to your Authorized Users. You acknowledge that we are not responsible for the unauthorized use of any Service.

You agree that for any transactions initiated either by you or by any company you have designated (“Customer Initiated Transactions”), the records of the Bank shall, in the absence of manifest error, be conclusive and binding on you. We and any of our officers, directors, employees and agents will not be liable for any delay or failure to effect a Customer Initiated Transaction by reason of any causes beyond our reasonable control, or for any errors in transmission or disclosure of any financial or confidential information, except errors or disclosures caused by our gross negligence or willful misconduct.

In no event will we be responsible for your acts or omissions or the acts, or omissions of your Authorized Users in connection with or arising out of your or their use of the Service(s). You agree that if any instructions received by us purport or appear on their face to have been signed, sent or authorized by you or your Authorized Users, such instructions may be treated by us as though they have been duly provided by you or your Authorized Users with your authority and on your behalf, notwithstanding that such instructions were not so signed, sent or authorized by you or your Authorized Users. You agree to pay all applicable Service fees and charges promptly when due, as set out in the Service Request & Pricing Schedule(s). You also agree to pay all applicable taxes and duties on the Services we provide to you. We may change any of our Service fees or charges. If we do, we will give you notice at least thirty (30) days before they go into effect, either through a written or electronic notice or by posting a notice in our branches or on our website except for Jamaica where we will give you forty-five (45) days notice before any changes going to effect.



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You acknowledge that a base monthly fee is payable for each Service you have requested as provided in the Service Request & Pricing Schedule(s) whether or not you make use of that Service. Any unused transactions may not be carried forward for future use.

The procedures and time periods associated with the provision of each Service (including, without limitation, cut off times, processing days and times, treatment of holidays and weekends) may vary according to the location of your branch. You must contact your Account Manager to obtain the specific information regarding these procedures in each country in which you have requested a Service. While we will use all reasonable efforts to execute all funds transfers and payments on the day your funds transfer instructions are received by us (provided the funds transfer instructions are received by us prior to the cut off time applicable to your branch), we shall not be responsible for any delays in any transfers we make or subsequent transfers by or between other third parties.

You may terminate any of the Services you have subscribed to in the Service Request & Pricing Schedule upon providing at least 30 days prior written notice to us. If any Service is canceled by either party, you will be liable for any payments or instructions issued before it was canceled and for all payments required to be made by this Agreement.

If you are approved for Wire Payment Services, Bill Payment Services and/or the Account Transfer Service, you agree that in addition to your obligations elsewhere in this Agreement, to:

- authorize us to accept instructions transmitted to us through *Scotia OnLine* Internet Banking and to execute wire payments when such instructions are in accordance with a payment instruction (the "Request") made by you via *Scotia OnLine* Internet Banking. Prior to the commencement of the Wire Payment Service, we will confirm with you the set-up of written instructions pursuant to the Request and we may contact you from time to time to confirm that the instructions we receive are correct;
- provide the information required in the Service Request & Pricing Schedule to ensure we can perform these Wire Payment Services, Bill Payment Services and/or the Account Transfer Service for you; and
- confirm the set-up of the instructions pursuant to the Service Request & Pricing Schedule with us before using the Service.

If you are approved for the Cross Currency Transfer Service, you agree, in addition to your obligations elsewhere in this Agreement, to:

- authorize us to accept instructions transmitted to us through *Scotia OnLine* Internet Banking and to execute cross currency transfers between your entitled accounts.

We can limit the availability of the Cross Currency Transfer Service without notice at any time.



If you are approved for electronic debit and/or credit Service known as Batch Payment Services and Batch Collection Services, you agree, in addition to your obligations elsewhere in this Agreement, to:

- provide the information required in the Service Request & Pricing Schedule to ensure the Bank can perform these Batch Payment Service and Batch Collection Services for you;
- provide us with the funds required to make any payments under these Services in a form that is satisfactory to us, on the day on which the payments are to be made available to payees or on such other day as the Bank may notify you in writing;
- use your best efforts to respond promptly to any enquiries by persons who are expecting to receive or make payments under this Service by us and to resolve any difficulties; experienced by other parties or by the payees or intended payees of such payments that you have ordered;
- designate a person authorized by you to assist us in resolving any outstanding issues and to inform us in writing if there is a change in the designated person;
- warrant and guarantee to us that each person, in respect of whom a pre-authorized debit or credit is issued or caused to be issued by you, will have signed and delivered to you before any pre-authorized debit or credit is issued, a written authorization in a form acceptable to us authorizing the pre-authorized debit (or credit payment, if such a form is required in the jurisdiction in which your branch is located). You further warrant and guarantee you have informed such person of the terms and conditions of your pre-authorized debit or credit plan;
- undertake and it is your sole responsibility for ensuring that all authorizations are signed by the valid signing authority(ies) for the relevant accounts;
- where a recipient has authorized you to issue variable amount debits or credits in respect of the recipient's account, you undertake to provide to the person from or to whom the debit or credit is issued a statement of account in support of the debits or credits in accordance with the terms of the relevant recipients authorization;
- provide to us with the originals or copies of the authorization forms against which you or your Authorized User(s) have issued or caused to be issued a pre-authorized debit or credit or to make the same available for inspection immediately upon our request; and
- acknowledge that if you or your Authorized User(s) fail to comply with the terms of these undertakings, the items issued or caused to be issued by you and your Authorized User(s), will not be accepted for clearing and that you will be prohibited by us from issuing or causing to be issued pre-authorized debits and credits for such period of time as we may determine.

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Reports produced by the Bank in performing the Service will be available to you online through *Scotia OnLine* Internet Banking.

If you are approved for Cheque Reconciliation Services, you agree, in addition to your obligations elsewhere in this Agreement, to:

- provide the information required in the Service Request & Pricing Schedule to ensure we can perform the Cheque Reconciliation service for you;
- ensure your cheques are serially MICR encoded and tested to ensure they conform to our standards and requirements; and
- inform us in writing of any changes you are requesting to this Service to your domicile branch, which may be done after a reasonable time is given to update the Cheque Reconciliation Service.

If you are approved for the Consolidated Cash Plan Service (“CCP”), you agree, in addition to your obligations elsewhere in this Agreement, to:

- provide the information required in the Service Request & Pricing Schedule to ensure we can perform this Cash Consolidated Plan Service for you;
- designate a Business Account to serve as the concentration account at a concentration branch for this Service that will be credited with deposits made at other Scotiabank branches.

You also agree that any changes requested by you to be made to the list of your agents will only be effective when such agreement is confirmed by us in writing.

# Scotiocard Cardholder Agreement

This *Scotiocard* Cardholder Agreement (“*Scotiocard* Agreement”) sets out the terms under which you may use your *Scotiocard* Banking Card. It replaces all previous *Scotiocard* Agreements and applies to a new, a renewal or a replacement *Scotiocard* Banking Card.

## Using Your *Scotiocard* Banking Card

Upon your request, we will issue a *Scotiocard* Banking Card to you, in your name. If you sign the reverse of the *Scotiocard* Banking Card or if you activate or use the *Scotiocard* Banking Card or use your *Scotiocard* Banking Card number, that means you have received and you agree to the terms and conditions described in this *Scotiocard* Agreement. Once your *Scotiocard* Banking Card is activated, you may access the following services (where offered) with your *Scotiocard* Banking Card and the Electronic Signature specific to that service:

Automated Banking Services are channels where you can access your designated Business Accounts and may, in your country, include:

- Automated Teller Machines (ATMs) for ABB Full Service service where there is a single signatory to the Business Account, and ABB Deposit Only Service for other circumstances;
- telephone banking through our Contact Centres or Business Support Centres;
- Debit Point of Sale payment devices (POS) for ABB Full Service Only; and
- cash management services. You can obtain cash advances at designated ATMs from your credit card if:
- we have authorized the cash advance functionality for the designated cardholders,
- Automated Banking Services access to these accounts has been pre-arranged,
- your accounts are in good standing, and
- your account credit limit will not be exceeded as a result of obtaining the cash advance.

You authorize Scotiabank to accept your instructions given through any of these methods, as if you had given the instructions in writing, for any service request the Bank is prepared to honour, including bill payments, transfers between accounts, issuance of drafts to third parties and any other available Automated Banking Services offered by the Bank from time to time.

## POS, Phone, Internet, Mail Order Purchases

Where available, you may use your *Scotiocard* Banking Card or your *Scotiocard* Banking Card number to pay for goods and services. When you pay for goods or

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services using your *Scotiocard* number without presenting your *Scotiocard* Banking Card, you will have the same responsibilities as if you had presented your *Scotiocard* Banking Card to a merchant and signed a sales draft or receipt or entered your Electronic Signature.

### **Transaction Charges And Fees**

You agree to pay and we may deduct, without notice, from any of your Business Accounts (even if this creates or increases an overdraft) the following:

- I. a transaction charge or service fee, at the prevailing rate (as determined by us from time to time), for each transaction for which your *Scotiocard* Banking Card number has been used to obtain a Service. A notice of the charges and fees is available in our branches upon request.
- II. the transaction charges or service fees imposed by other financial institutions (inside or outside the country in which the *Scotiocard* Banking Card is issued) for transactions conducted through their ATMs or POS devices in which the *Scotiocard* Banking Card and Electronic Signature have been used. You should contact the other financial institutions for the transaction fees they charge for using their ATMs or POS devices.

Any changes to our charges and fees will be provided to you in accordance with legal requirements to your mailing address on record with us.

You acknowledge that the transaction charges and service fees charged for each transaction performed are in addition to any Business Account level service charges which apply to your Business Account(s).

- III. any stamp duty payable by the Bank or by you with respect to any transaction made using your *Scotiocard* Banking Card.

### **Transaction Limits**

We may establish and change limits, dollar or otherwise, from time to time, on the various transactions which may be available through the Services, without prior notice to you. Cumulative limits (e.g. daily, weekly or per transaction) vary from country to country and notice of such limits is available in our branches upon request.

### **Transaction Records/Confirmation Numbers**

At the completion of each Automated Banking Services transaction, you will be given a transaction record or reference number, unless otherwise requested. If your *Scotiocard* Banking Card and Electronic Signature are used for a POS transaction, we may arrange for a third party, such as a merchant, to give you the transaction record.

You agree that cheques or any other form of debit voucher delivered to any Scotiabank branch offering ABB or Automated Banking Services other than your domicile branch, will not be returned to you, but will be reflected in your Business Account statement or passbook.

Our records as to whether an Automated Banking Service has been performed, and our determination of the details of that transaction, will be considered correct and binding on you, unless you provide us with evidence to the contrary within thirty (30) days of the date of a disputed transaction.

### **Posting Of Transactions**

Any Automated Banking Service transaction (excluding automated bill payments) conducted before 7:00p.m. (in the country where your Business Account is Domiciled), Monday through Friday will normally be posted to your applicable Business Account as of the date of the transaction, unless that day is a holiday. Transactions conducted on Saturdays, Sundays or holidays will normally be posted to your applicable account as of the next Business Day. Transactions conducted outside the country where your Business Account is Domiciled may be posted to your Business Account at a later date.

Any automated bill payment request made on or before 7:00p.m., Monday through Friday, will be posted to any of your designated Business Accounts on the day of the transaction. An automated bill payment made after 7:00p.m., Monday through Friday or anytime on Saturday, Sunday or a holiday will be posted to your designated Business Account on the next Business Day.

Any automated bill payment request will be deemed to have been received by us on the date the transaction is posted to your Business Account. We are not responsible for any of the processing or posting procedures of your designated Bill Payment Companies. Transactions for Business Accounts with insufficient funds at the time of posting will be declined. The debits to your Business Account for post-dated bill payments and funds transfers are processed by 7:00p.m. on the date to which your payment is post-dated.

### **Limitation Of Liability**

**WE AND OUR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS ARE NOT LIABLE TO YOU FOR ANY DELAY, LOSS, DAMAGE OR EXPENSE THAT YOU INCUR OR ANY INCONVENIENCE THAT RESULTS FROM OUR PROVIDING OR FAILING TO PROVIDE ANY SERVICE, EXCEPT WHERE SUCH LOSSES RESULT FROM TECHNICAL PROBLEMS, BANK ERRORS OR SYSTEM MALFUNCTIONS FOR WHICH WE ARE SOLELY RESPONSIBLE. ALSO, WE AND OUR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS ARE NOT RESPONSIBLE FOR YOUR ACTS OR OMISSIONS OR THOSE OF ANY THIRD PARTY. FURTHERMORE, WE AND OUR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS SHALL IN NO WAY BE LIABLE FOR ANY ACCIDENT, ACT OF AGGRESSION, THEFT, LOSS OR DAMAGE YOU MAY SUFFER WHILE USING AUTOMATED BANKING SERVICES OR OTHER SERVICES, WHETHER YOU ARE ON THE BANK OR OTHER PREMISES.**

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**WE AND OUR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS ARE NOT RESPONSIBLE FOR ANY LOSSES OR DELAYS IN TRANSMISSION OF INSTRUCTIONS ARISING OUT OF THE USE OF ANY ACCESS SERVICE PROVIDER OR CAUSED BY ANY BROWSER SOFTWARE OR THIRD PARTY SOFTWARE. WE ARE NOT RESPONSIBLE FOR ANY SYSTEM DISRUPTIONS INCLUDING DISRUPTIONS CAUSED BY ANY COMPUTER VIRUS, BROWSER SOFTWARE OR RELATED PROBLEMS OR BY ANY ACCESS SERVICE PROVIDER.**

We are not responsible if you give us incorrect instructions or if your payment instructions are not given sufficiently in advance to allow for timely payment. We are not liable for any deficiencies in the accuracy, completeness, availability or timeliness of any information you provide to us or for any investment or other decision made using this information.

Neither the Bank, nor any other service provider, make any express or implied warranties concerning the *Scotia OnLine* Internet Banking Services or browsers including, but not limited to, any warranties of merchantability, fitness for a particular purpose or non-infringement of third party proprietary rights unless disclaiming such warranties is prohibited by law.

If your *Scotiocard* Banking Card and Electronic Signature or handwritten signature is used for a Service transaction, the Bank is in no way responsible for the quality or non-receipt of the goods or services. All claims or disputes between you and the merchant, including your rights to compensation or any off-setting rights, shall be settled directly by the merchant and you. We are not liable if a merchant does not accept the *Scotiocard* Banking Card at any time. If a merchant issues you a refund, we will credit your designated Business Account with the refunded amount only when we receive a properly issued credit voucher or other appropriate verification or authorization of the refund from the merchant.

You are responsible for any errors that result from your having incorrectly provided to or selected from us, any Business Account number, dollar amount or other information required for the operation of the Automated Banking Services. You acknowledge that once you have confirmed the details of a payment, you may not revoke or stop the payment, except in the case of a post-dated *Scotia OnLine* Internet Banking payment, you may delete the payment no later than three (3) business days before the date the payment is due to be charged to your Business Account.

You are responsible for notifying us of any changes to or errors in billing account information. You are responsible for effecting these changes to your Business Account information via telephone banking or *Scotia OnLine* Internet Banking (where these Services are available). We may, at our discretion and without prior notice, refuse a request for authorization of any *Scotiocard* Banking Card transaction, and may notify third parties of such refusal as we think necessary. In exercising such discretion, we

may take into account in calculating the funds available, any funds, which we may decide, have been credited or debited to your Business Account.

We are not obligated to act on any withdrawal instruction from you if sufficient funds, including overdraft, are not available in the Business Account you designate. At the Bank's discretion, we may create or increase an overdraft to your Business Account(s) according to this Agreement. We may place a hold on ABB or ATM deposits made to your Business Account(s) pending verification.

By using your *Scotiabank* Banking Card to withdraw and/or transfer funds from your Scotiabank credit card, you understand that each withdrawal and/or transfer from your credit card is treated as a cash advance under the Small Business Credit Agreement for credit cards.

### **Lost, Stolen, Authorized Or Unauthorized Use Of The *Scotiabank* Banking Card**

You will notify us immediately, by telephone and in writing, of the loss, theft or any unauthorized use of your *Scotiabank* Banking Card or Electronic Signature. Your liability will cease only when we receive notice of such loss, theft or unauthorized use.

You are responsible for the care and safety of your *Scotiabank* Banking Card and your Electronic Signature. You will keep your Electronic Signature strictly confidential, secure from all persons without exception and apart from the *Scotiabank* Banking Card at all times.

You must not disclose any other security codes, such as passwords, PINs, access codes and Business Account numbers that may be used or required for Automated Banking Services, the ABB Service or any other Service transactions. You are liable for all *Scotiabank* Banking Card transactions incurred using your Electronic Signature.

If you require a replacement *Scotiabank* Banking Card in these situations, or if your card is retained by any Scotiabank ATM, immediately visit or call your nearest Scotiabank branch.

### **Limitations For Authorized And Unauthorized Use Of The *Scotiabank* Banking Card**

You are liable for all debts, withdrawals and Business Account activity resulting from:

- use of the *Scotiabank* Banking Card by you or by persons to whom you have made your *Scotiabank* Banking Card and/or Electronic Signature available or who received possession of the *Scotiabank* Banking Card and/or Electronic Signature with your consent;
- unauthorized use of the *Scotiabank* Banking Card and/or Electronic Signature, where you have made available for use your *Scotiabank* Banking Card and Electronic Signature by keeping them together or in such a manner as to make them available for use, including, without limitation, using the "Save My Card" feature on a public access computer until we have received notice of loss, theft or unauthorized use; or



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- any failure to comply with the terms of this Agreement.

You will not be liable for losses in the following circumstances:

- technical problems and other system malfunctions;
- unauthorized use of your *Scotiacard* Banking Card and Electronic Signature, including your PIN, password or access code after the *Scotiacard* Banking Card has been reported to us as lost or stolen;
- your *Scotiacard* Banking Card is cancelled or expired;
- you have reported to us that another person knows your Electronic Signature, including your PIN, password or access code;
- where you have been a victim of force or intimidation, provided you have not contributed to the loss; or
- fraud or negligence caused by us.

You will be considered as contributing to the unauthorized use of your *Scotiacard* Banking Card and/or Electronic Signature and will be fully liable for all debts, withdrawals and Business Account activity where:

- the Electronic Signature you have selected is the same as or similar to an obvious number combination such as your date of birth, bank account number(s) or telephone numbers; or
- you write your Electronic Signature down or keep a poorly disguised written record of your Electronic Signature, such that it is available for use with your *Scotiacard* Banking Card; or
- you otherwise reveal your Electronic Signature to anyone, resulting in the subsequent unauthorized use of your *Scotiacard* Banking Card and Electronic Signature together.

Until such time as you notify us of the loss, theft, or unauthorized use of your *Scotiacard* Banking Card and Electronic Signature, you will be responsible and liable for all withdrawals from or other transactions on your Business Accounts up to the maximum daily and weekly permitted withdrawal limits through ATMs which we establish from time to time. You will also be liable for all purchases and withdrawals up to the maximum daily and weekly limit for POS transactions which we establish from time to time and for all transfers and payments completed via the *Scotia OnLine* Internet Banking or telephone banking service, if these apply. The limit for POS transactions is over and above the maximum daily and weekly ATM withdrawal limit.

Note the amount of the loss may exceed your Business Account balance if your Business Account has overdraft protection (where available) or if a fraudulent deposit has been made to your Business Account.



## **Adding or changing the terms of this *Scotiabank* Cardholder Agreement**

You acknowledge that we can add, change, modify or replace the terms and conditions of this *Scotiabank* Cardholder Agreement from time to time. Notice of additional, amended, modified or replaced terms and conditions may be given to you in any of the following ways:

- a notice addressed to you at your last address in our records,
- an announcement through the voice-response-unit (VRU),
- a notice on our public website,
- a notice in a readily accessible place in our branches,
- a notice in your statement, or
- a notice prominently displayed at our ATMs or on our ATM screens.

We consider you to have received the written notice: (i) on the same day that it was sent if sent by fax or Electronic Communication, (ii) on the day it was hand delivered, (iii) when it is posted in our branches, posted on our website, displayed at our ATMs or on our ATM screens or announced on our voice-response-unit, (iv) printed in your statement, or (v) on the fifth (5th) calendar day if sent by regular mail. If your address is in The Bahamas, Guyana, Antigua & Barbuda or Barbados we consider you to have received the notice on the fourteenth (14th) day of it being mailed.

Your continued use of the Business Account or if you have funds on deposit in the Business Account or in a Certificate of Deposit or Term Deposit after we have provided notice or if you continue to use any of the Automated Banking Services or any other Service following notice of such change means that you agree to and accept the new terms and conditions of the *Scotiabank* Cardholder Agreement as amended, modified and/or replaced.

If you do not agree with any of the changes made you must immediately stop using your *Scotiabank* Banking Card and notify us that you are cancelling your *Scotiabank* Banking Card; however you are still responsible for all obligations to us under the *Scotiabank* Cardholder Agreement until they have been satisfied in full.

## **Processing Foreign Currency Transactions**

If you use your *Scotiabank* Banking Card and Electronic Signature for cash withdrawals or to purchase goods or services outside the country in which the *Scotiabank* Banking Card was issued, we will convert the amount of the cash withdrawal or purchase using the exchange rate determined by the applicable association, such as Visa International, MasterCard International Incorporated or local debit network, on the day the transaction is posted to your Business Account. This rate may be different from the rate in effect on the date your withdrawal or debit point of sale (POS) transaction occurred. An additional association or local debit network service fee may apply and will be added to the converted amount, and any additional Scotiabank service fee, as applicable, on the converted amount. We will

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deduct the total amount from your designated Business Account in the currency of the Business Account. The amount of the fees and charges are is available from your branch of account upon request.

If you use your *Scotiabank* Banking Card for a transaction involving a foreign currency, and the merchant or retailer gives you a credit voucher, the two transactions (the debit and credit) may not balance exactly because of exchange rates, spread and currency fluctuations between the debit and credit dates.

### **Settling Disputes**

All disputes between you and a designated Bill Payment Company, including your rights to compensation or any off-setting rights (set-off), shall be settled directly by and between you and the Bill Payment Company. We do not verify, nor are we required to verify, that any purpose for which the payment is made has been fulfilled by the Bill Payment Company as a condition of honouring your payment request on your Business Account.

Any dispute you have regarding the Services provided under this Agreement will normally be resolved within fifteen (15) Business Days after the domicile branch of the Business Account is notified in writing of the dispute. If a dispute cannot be resolved within this time, we will provide you with information concerning our dispute resolution process and how long each step will normally take.

### ***Scotiabank* Banking Card Customer Service**

You can use your *Scotiabank* Banking Card to access services at any of the networks displayed on the back of your *Scotiabank* Banking Card.

# Scotiabank Privacy Agreement

## How we will protect your privacy

Your privacy is important to Scotiabank. This Privacy Agreement (the “Privacy Agreement”), as amended from time to time, sets out the information practices for Scotiabank, including the type of information collected, how the information is used, and with whom the information is shared.

This Privacy Agreement applies to each individual that has applied for, signed an application, enrolled in, or uses any personal or business banking, insurance, brokerage or financial product or service offered by us (“Service(s)”) including any co-applicant(s), guarantor(s), personal representatives, or an individual who participates in a Scotiabank contest, survey, event or has otherwise provided personal information to us (“you” and “your”).

This Privacy Agreement replaces all previous privacy agreements, either written or oral, between you and us regarding the collection, use and disclosure of your Personal Information.

## In this Privacy Agreement:

“we”, “our”, “us” and “Scotiabank”, means The Bank of Nova Scotia, or any of its branches, agencies, subsidiaries and affiliates, joint ventures operating globally. Scotiabank includes companies engaged in the following services to the public: deposits, loans and other personal financial services; credit, charge, debit and payment card services; full service and discount brokerage services; mortgage loans; trust and custodial services; insurance services; investment management and financial planning services; and mutual funds investment services; and services related to the above such as loyalty programs.

“Personal Information” or “information” includes information about an identifiable individual, such as contact information, financial and account information, age and gender, identification numbers, income and employment information. This may include information provided by the individual or collected by Scotiabank from the use of its products and services, third parties or public sources, and includes information in any format, including digital formats.

## Collecting, Using and Disclosing your Information

Scotiabank is a global organization with legal entities, business processes, management structures and technical systems that cross borders. Our privacy practices are designed to provide protection for your Personal Information where Scotiabank operates.

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## What We Collect from You

- When you apply for, or provide a guarantee in respect of, or use any Service and while you are our customer, or when you participate in a survey, promotion or contest with Scotiabank or otherwise provide us with your Personal Information, you agree we may collect your Personal Information, including but not limited to: your full name and contact details (such as address, telephone and mobile number, email address), National Identification Number (where applicable), date of birth, occupation and the nature and type of business you operate (if applicable), which may be required by law in many of the jurisdictions that Scotiabank does business;
- Government-issued identification, such as a valid passport, national identification card, voter's card or driver's license, as well as other documents or means of confirming your identity that are acceptable to us. We may also ask for documents such as a recent utility bill to verify your name and address;
- Your education, annual income, assets, liabilities and credit history;
- Information about your transactions, including payment history, Account activity, how you intend to use the Account, Certificates of Deposits, Term Deposits, products or Services and the source of any incoming funds, wealth, or assets;
- Information we may need in order to provide you with a Service, such as asking you for health information if you are applying for certain insurance products. In some instances, providing this information is optional;
- Information about third parties such as your spouse if you are applying for certain Services, where this information is required by law; and
- Information about beneficial owners, intermediaries and other third parties where this information is required by law.

For legal entities such as corporations, partnerships, trusts, estates, organizations, joint ventures or clubs (including investment clubs) or other organizations, we may collect the information referred to above for authorized persons, including, without limitation signatories, officers, partners, trustees, executors and club members, as appropriate.

In addition, when you apply for, enroll in or use a Service, or participate in any contest, survey or event via a digital channel (such as online or mobile banking), we may collect information about your computer or device, operating system, internet connection or telephone account, settings, IP address, device locational data, and transaction data, as well as personal information as described above. We may collect, use, disclose and retain this information for the purposes described below, as well as to determine which settings are appropriate for your computer system, so we can provide or enhance digital functionality and banking options, for security purposes,

internal analysis and reporting. You may withhold consent to the collection, use and disclosure of this information, although in some cases this may prevent you from using the digital channel to apply for or use a Service or to communicate with us, or may reduce the functionality of that channel.

Scotiabank or its service providers may also use various web tools including Cookies (please see our Cookies Policy), Web Beacons and Tagging on our websites and advertisements to evaluate and improve our websites and other electronic offerings, tailor our Services, enhance our customer experience and communicate with you regarding products and Services that may be of interest.

- Tagging is a customized code on our websites that provide the ability to monitor user activity on Scotiabank websites. This software can be used to capture user activity to be used by us or a third party for analysis so that we can understand and enhance our user experience and provide further security controls.
- Web Beacons are small images embedded in our websites that, when combined with Cookies, help provide us with information about the use and effectiveness of our website.

Scotiabank may use video surveillance in and around our branches, bank machines and other locations for the purpose of safeguarding our clients and employees and protecting against theft, fraud and vandalism. Any video images recorded are destroyed when they are no longer required for business or other purposes, and any Personal Information is safeguarded in accordance with this Privacy Agreement.

### **How we Use and Disclose Your Information**

We may collect your Personal Information, and use it and disclose it to any person or organization, including any member of Scotiabank, for the following purposes:

- To confirm your identity;
- To understand your needs;
- To determine the suitability of our Services for you;
- To determine your eligibility for our Services;
- To set up, manage and offer Services that meet your needs;
- To provide you with on-going services;
- To provide you with various options for applying for and accessing Services;
- To meet our legal and regulatory requirements, including the requirements of any self-regulatory organization to which we belong;
- To help us collect a debt or enforce an obligation owed to us by you;
- To respond to a local or foreign court order, search warrant or other lawful demand or request that we believe to be valid, or to comply with the rules of production of a local or foreign court;

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- To manage and assess our risks;
  - To investigate and adjudicate insurance claims, other claims or complaints; and
  - To prevent or detect fraud or criminal activity or to manage and settle any actual or potential loss in connection with fraud or criminal activity.

When we collect your health information for the purpose of providing an insurance service, we will use and disclose such information strictly for that purpose. (See below for more information).

### **Third Party Service Providers**

We do not provide directly all the Services related to your relationship with us. We may use third party service providers (including affiliates) to process or handle Personal Information on our behalf and to assist us with various services such as printing, postal and electronic mail distribution, data processing and analytics, marketing (including by telephone and electronic means), and providing customer support and you acknowledge and agree that we can release personal information about you to them.

### **Third Party Engagement as a Precondition of a Service or Product - Jamaica**

For Services offered by The Bank of Nova Scotia Jamaica Limited, you agree that we may require the service(s) or product(s) of a third party as a precondition to our provision of a service(s) or product(s) to you. All third parties used by us to fulfill this function and any other information pertinent to the delivery of our service(s) or product(s) will be notified to you through provisions for notice under this Agreement

When Personal Information is provided to third parties, Scotiabank will take the necessary measures to protect the Personal Information they receive from us in a manner that is consistent with our policies and practices, and that such information will only be used for its identified purposes.

### **International Transfer/Outsourcing of Personal Information**

Our affiliates and service providers may be located in different jurisdictions than your home jurisdiction. We may share your Personal Information with our services providers, branches, subsidiaries and affiliates operating outside of your home jurisdiction for any of the purposes set out above. This means that your Personal Information may be disclosed to regulatory authorities in accordance with the laws of these jurisdictions. You understand and agree that your Personal Information may be transferred to and collected, used, disclosed or stored in jurisdictions outside of the jurisdiction in which you reside.

### **Verifying Your Identity**

You agree that we may collect, use and disclose your social security number or any

other type of national, tax or other government-issued personal identification number or information, where permitted by law, for income tax reporting purposes and to fulfil other regulatory requirements, as required by law. In addition, we may also collect, use and disclose this information to verify and report credit information to credit bureaus and credit reporting agencies as well as to confirm your identity, where permitted by law. This allows us to keep your Personal Information separate from that of other customers, particularly those with similar names, and helps maintain the integrity and accuracy of your Personal Information. You may refuse to consent to its use or disclosure for purposes other than as required by law. However, this may result in a denial of a Service or product.

In addition, information may also be disclosed to foreign taxation authorities such as the U.S. Internal Revenue Service or to any local taxation authority as required under the U.S. Foreign Account Tax Compliance Act ("FATCA"), or similar legislation from other countries or under local law.

We may verify relevant information you give us with your employer, your references or other reliable independent sources, and you authorize any person whom we contact in this regard to provide such information to us.

If you apply for or enroll in a Service and during the time you have the Service, we may consult various financial service industry databases, third parties or private investigative bodies maintained in relation to the type of Service you have applied for, enrolled in, or have. You also authorize us to release information about you to these databases and investigative bodies.

### **Marketing Purposes**

We may analyze and use your information to better understand your use of our Services and to identify other products, services or offers from Scotiabank or select third parties that may be of interest to you, and may share your information within Scotiabank for these purposes. Unless you opt out, we may also use and share your contact information within Scotiabank so that we and our affiliates may contact you directly to tell you about products, services, offers, promotions, events and other valuable information from Scotiabank and select third parties, including via mail, telephone, email or other electronic channels. This consent will also apply to any companies that form a part of Scotiabank in the future. We will never share your information with third parties outside of Scotiabank for marketing purposes without your express consent.

If you have a Service with us, you agree that we may use, disclose to and collect from credit bureaus, credit reporting agencies or financial service industry databases (where applicable), credit and other information about you in order to offer you pre-approved credit products or margin facilities. We may also do this after the service has ended.

You may withdraw your consent to the use and disclosure of your Personal Information for the above marketing purposes at any time (see below).



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## Recording and Monitoring

We monitor the account(s), certificate(s) of deposit, and term deposit(s) you have with us to meet our legal and regulatory obligations, including using automated surveillance systems to prevent or detect fraud or criminal activity such as money laundering or terrorist financing. We may also share your information within Scotiabank for these purposes, including investigating unusual or suspicious activity and, if necessary, reporting such activity to law enforcement agencies.

We may, with notice and consent where required, also monitor, record, and retain any telephone call or electronic communication we have with you. This is done to establish an accurate record of the information you provide, ensure that your instructions are followed properly, ensure customer service levels are maintained, resolve complaints and disputes, and for training purposes. Records of calls and electronic communications are destroyed when they are no longer required for business or other purposes, and any Personal Information is safeguarded in accordance with this Agreement.

You agree that a copy of a permanent business record(s) (in any form, including microfilm, photocopy, CD-ROM or image) or any communication with you may be substituted for the original of such document. You agree such records, or any recorded verbal communication, may be used, to the extent permitted by law, as conclusive evidence of the content of that communication in any legal or other proceedings.

## *Use and Disclosure of Information for Specific Products and Services*

### **Credit Cards, Mortgages, Loans and other Credit Products**

When you apply for, accept, guarantee a loan or credit facility, or otherwise become indebted to us, and from time to time during the course of the loan or credit facility, you agree that we may obtain, use, verify, share and exchange credit and other information (except health information) about you with others including: credit bureaus, mortgage insurers, creditor insurers, registries, our branches, subsidiaries and affiliates, and other persons with whom you may have financial dealings, as well as any other person as may be permitted or required by law. You agree that, we may do this throughout the relationship we have with you and you also authorize any person whom we contact in this regard to provide such information to us and we can continue to disclose your Personal Information to credit bureaus even after the loan or credit facility has been retired and, subject to applicable law, you may not withdraw your consent to our doing so.

If you have a Service with us such as a ScotiaCard, credit card or line of credit product, you agree that we may give information (except health information) about you to electronic payment service providers, credit or charge card associations, loyalty program partners and their employees and agents for the purposes of processing, authorizing and authenticating your transactions (as the case may be), providing you with customer assistance services, and for other purposes related to your Services. We



may also give this information in respect of your participation in contests and promotions administered by the electronic payment service providers, credit or charge card associations and loyalty program partners on our behalf.

If you have a mortgage account with us, if applicable we may give information about you, including credit information, to government mortgage insurers for any purpose related to mortgage insurance. Information retained by government mortgage insurers may be subject to access to information and privacy legislation.

**Insurance Products (Only applicable in countries where we are legally entitled to offer insurance services to you)**

Subject to applicable legal requirements, when you apply for, enroll in or sign an application in respect of or accept an insurance service from us, you agree that we may use, give to, obtain, verify, share and exchange information about you with third parties including references you have provided, hospitals and health practitioners, government health insurance plans, other insurers, medical information and insurance service bureaus, law enforcement representatives, private investigators, and other groups or companies where collection is necessary to underwrite or otherwise administer the Service requested, including the assessment of claims. You also authorize any person whom we contact in this regard to provide such information to us.

If you accept an insurance service with us, or if an insurance service is issued on your life, you may only withdraw your consent, as indicated below, so long as the consent does not relate to the underwriting or claims where Scotiabank must collect and report information to insurance service bureaus after the application has been underwritten or the claim has been adjudicated. This is necessary to maintain the integrity of the underwriting and claims systems.

### **Disclosure in the Event of a Sale**

If we sell a company or a portion of the business or assets of The Bank of Nova Scotia or any affiliate, you agree that we may release your information to the purchaser, including prior to the sale. We will require any purchaser to protect the information we share, and to use it in a manner that is consistent with Scotiabank privacy policies and practices.

### **Safeguarding of Personal Information**

The information that we collect is used strictly for Scotiabank's business purposes. Our employees' access to your records is restricted and limited to facilitate the business or provide ongoing customer service. We permit authorized employees, trained in the proper handling of Personal Information, to have access to your records on a need to know basis and only for these purposes.

We have adopted and implemented physical, electronic and procedural safeguards and security practices to protect your information against loss, theft and unauthorized access.

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## **Retention of Personal Information**

You agree that we may keep and use information about you in our records for as long as it is needed for the purposes described in this Privacy Agreement, even if you cease to be a customer, subject to applicable law.

## **Accuracy of Personal Information**

You acknowledge that all the information provided by you will, at any time, be true and complete. If any of your Personal Information changes or becomes inaccurate or out of date, you are required to advise us so we can update our records.

## **Refusing or Withdrawing Consent**

Subject to legal, regulatory and contractual requirements, you can refuse to consent to our collection, use or disclosure of information about you, or you may withdraw your consent to our further collection, use or disclosure of your information at any time in the future by giving us reasonable notice. However, depending on the circumstances, withdrawal of your consent may prevent us from providing you, or continuing to provide you, with some Services, means of access to Services, or information that may be of value to you.

We will act on your instructions as quickly as possible but there may be certain uses of your information that we may not be able to stop immediately.

You cannot refuse our collection, use and disclosure of information required by third party service providers essential for the provision of the Services or required by our regulators, including self-regulatory organizations.

You may inform us at any time to stop using information about you to promote our Services or the products and services of third parties we select. If you wish to refuse consent or to withdraw consent as outlined in this Agreement, you may do so at any time by contacting the branch or office with which you are dealing with or by contacting your local Customer Support Team (see contact details below under “Contact Us” section).

## ***Changes to this Privacy Agreement***

You agree that we can amend, modify, change or replace this Privacy Agreement at any time to take into consideration changes in laws and regulations, our practices or to address other issues. We will post the revised Privacy Agreement on our public website and make it available at our branches. We may also notify you of any changes to this Privacy Agreement in accordance with applicable law, which may be in any of the following ways:

- A notice addressed to you at your last address in our records;
- An announcement through the Voice-Response-Unit (VRU);
- A notice on our public website or your Scotia OnLine portal;

- A notice in our branches;
- A notice in your statement;
- A notice prominently displayed at our ATMs or on our ATM screens; or
- Notice in your local newspaper.

We consider you to have received the written notice:

- a) On the same day that it was sent if sent by fax or by Electronic Communication;
- b) On the day it was hand delivered;
- c) When it is posted in our branches, posted on our website, displayed at our ATMs or on our ATM screens, or announced on our voice-response-unit;
- d) Printed in your statement;
- e) On the fifth (5th) calendar day if sent by regular mail. However, if your address is in The Bahamas, Guyana, Antigua and Barbuda, Barbados, , we consider you to have received the notice on the fourteenth (14th) day of it being mailed; or
- f) Thirty days after notice has been published in your local newspaper.

Your continued use of (including maintenance of funds in) your Account, Certificate of Deposit, Term Deposit or any other Scotiabank Service following notice of such change means that you agree to and accept the new terms and conditions of the Privacy Agreement as amended. If you do not agree with any of the changes made, you must immediately stop using your Account, Certificate of, Deposit, Term Deposit and/or Services and notify us that you are terminating your respective agreement with us and close the Account(s), Certificate(s) of Deposit and/or Term Deposit account(s) (where permitted).

### **Accessing Your Information**

Subject to legal, regulatory and contractual requirements, you can request to access the Personal Information we hold about you. Much of this information is already accessible by you, for example: through your account statements or bankbook updates; by visiting the branch or office where you regularly do business; by accessing your account online; or through the Customer Contact Centre. However, if you need access to any other information, you must direct your request in writing to the local Country Head's Office or Designate (see contact details below under "Contact Us" section).

In order to process your request, we may ask you for specific details, such as branch and account number, and clarification on the specific information or time period you are requesting access to. Except where prohibited by law, once your identity has been verified and the scope of your request confirmed, within 30 days we will provide you with access to your information except where you are located in Barbados within 21 days, Jamaica or Belize within 14 days or in Bahamas 30 days. If necessary, we will notify you that we require an extension beyond the respective timeframes stipulated above.

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Scotiabank may charge you a nominal access fee depending on the nature of your request. We will advise you of the fee, if any, prior to proceeding with your request.

If you have a sensory disability, you may request that your information be made available in an alternative format.

### **Contact Us**

If you have a general question about Scotiabank's privacy policies, please contact the branch or office you deal with or call your local Scotiabank Contact Centre. If your branch or office is not able to resolve your concern to your satisfaction, please escalate to your local Country Head's Office or Designate.

You can access contact details for your country as well as steps to have your concern resolved by visiting our Global website (<https://www.scotiabank.com/global/en/global-site.html>) and thereafter, navigating to your respective country's "Contact Us" page.

# Small Business Credit Agreement

The terms and conditions in this Small Business Credit Agreement, unless specifically identified as pertaining to a particular product or financial service, apply to all Scotiabank Small Business banking products and Services, which we may provide to you from time to time, including but not limited to:

- the Scotiabank MasterCard BusinessCard<sup>®†</sup> Card, Scotiabank Aero Business Executive MasterCard<sup>®†</sup> Card and the Scotiabank AAdvantage<sup>®</sup> Business Executive MasterCard<sup>®†</sup> Card, (referred to collectively as the “Scotiabank Business MasterCard Cards”); and
- the Overdraft Protection Facility for Business, Credit Line for Business and Term Loan for Business (referred to collectively as the “Scotiabank Business Credit Products”). For Scotiabank Business Credit Products, this Small Business Credit Agreement consists of the following documents:
  - this Agreement;
  - the Personal Net Worth Statement; and
  - the Small Business Commitment Letter and the security schedule, (where applicable).

For Scotiabank Business MasterCard Cards, the Small Business Credit Agreement consists of the following documents:

- this Agreement;
- the Scotiabank MasterCard BusinessCard<sup>®†</sup> Cardholder Agreement;
- the Scotiabank MasterCard BusinessCard<sup>®†</sup> New Account/Change Request Form.
- the Scotiabank MasterCard BusinessCard<sup>®†</sup> Additional Cards Form; and
- the Small Business Commitment Letter and the Security Schedule, (where applicable).

## ***Terms applicable to all products in the Small Business Credit Agreement***

### **Declarations about information you give to us**

All persons signing the Personal Net Worth Statement, the Business Account Application and the Small Business Commitment Letter, or the Scotiabank MasterCard BusinessCard New Account/Change Request Form and the Scotiabank MasterCard BusinessCard Additional Cards Form certify that the following is true and complete:

- the owner(s) of the business is/are properly described in the Business Account Application, the Small Business Commitment Letter and the Personal Net Worth

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Statement or the Scotiabank MasterCard BusinessCard New Account/Change Request Form and the Scotiabank MasterCard BusinessCard Additional Cards Form;

- The information in the Business Account Application, the Personal Net Worth Statement and the Small Business Commitment Letter or the Scotiabank MasterCard BusinessCard New Account/Change Request Form and the Scotiabank MasterCard BusinessCard Additional Cards Form is complete and correct; and
- to the best of your knowledge, your loan application complies with all the applicable requirements of any government agency guaranteeing your loan, and will continue to comply until your loan is repaid in full (if applicable).

If the loan is approved, you agree:

- to use the proceeds of the loan for the purposes you specified in the Business Account Application and in the Small Business Commitment Letter and not for anything else;
- to give us any information we require to satisfy ourselves that you have used the loan for the purpose(s) stated in the Business Account Application and in the Small Business Commitment Letter;
- to properly use, maintain and repair your property pledged as security to the Bank;
- not to put a mortgage, lien or charge on any property purchased with the loan money or pledged or given as security for the loan unless you have our prior permission in writing;
- not to dispose of any property you purchased with the loan money or pledged or have given as security for the loan unless you have our prior permission in writing;
- to give us any additional information we reasonably require about your business, such as copies of documents and business records;
- to give us, from time to time and at your expense, any security, including but not limited to a mortgage over property, and insurance we require to secure the loan and the interest on it;
- to pay the cost of any insurance we may choose to obtain or renew if you do not provide or keep up the insurance we require; The amount we pay for this insurance coverage is recoverable by us with interest at the loan interest rate. You will be required to pay this amount upon demand, or we may deduct the amount from your deposit account and/or chequing account, Scotialine and/or Credit Line for business. *Alternatively*, we may add this amount to the loan and charge interest at the loan interest rate, in which case we will inform you of your new loan payment amount.
- to pay the cost of the necessary registration or filing and gathering of evidence about the priority of our security. If the loan is approved, you also:

- authorize us to register or file the security, or notice thereof, if necessary, and obtain evidence that satisfies us about the priority of the Bank's security;
- authorize us to sell the property as security given for the loan, or to realize on it in any way that is authorized by applicable law, if you default in any payment or other obligation under the Small Business Credit Agreement or under any other agreement with us from time to time. We will subtract our expenses from the money we get from the sale or realization. We will then apply the balance of the money to your debt. If there is not enough money to pay off your debt, you must pay the shortfall to the extent permitted by law. If there is a surplus we will return the surplus to you;
- acknowledge that the terms of a government guarantee may require us to sell or realize the security given for the loan in a short time, and we are not allowed to grant any period of time for you to correct your default, except as required by (if applicable); or
- authorize us to give all the information about your loan or in the Scotiabank Small Business Credit Agreement to any person involved in the administration of a government guaranteed loan (if applicable). We will give the information only to a person appointed by or on behalf of the government agency.

### **Your promise to pay**

You promise to pay us the full amount of the obligations described in the Small Business Credit Agreement, which includes the Small Business Commitment Letter(s) and any promissory notes that you execute, the interest on it when due and payable and any applicable fees and charges levied by us from time to time.

You also promise to pay us any expenses that we incur to realize on security or collect payments from you and the costs of preparing and registering any security or notice with respect to any security that we may hold as collateral in support of your obligations.

You provide us with an assurance that funds used to pay us will not be derived from activities which are prohibited according to anti-money laundering and terrorist financing laws and regulations, anti-corruption or bribery laws, as well as laws relating to Sanctions.

### **Your obligations**

You are required to satisfy a number of obligations to us when you borrow money from us. You agree to:

- pay all amounts you owe to other people to protect your property from other liens or claims;
- tell us right away if you cannot pay the amount you owe us;
- tell us right away if you commit any default under the terms and conditions of the Small Business Credit Agreement or under any other agreement with us;
- tell us before you change the ownership or nature of your business or the use of



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any property that is security for the money you owe us;

- tell us if any information in the Business Account Application, the Personal Net Worth Statement or the Small Business Commitment Letter changes;
- tell us right away if you move the property which is security for your indebtedness under the Small Business Credit Agreement but only tell us when you change the main base of operation for this property, if the property you move normally goes from one location to another;
- give us any information we request on your business or property;
- give us, when we request, your current financial statements, personal financial or net worth statement and any other information we may reasonably require from time to time;
- make sure your guarantor, when we request, also provides current financial statements, personal net worth statements and any other relevant information we may reasonably require from time to time;
- keep the property you have put up as security in first class order and repair, and replace all worn, broken or defective parts;
- let us on your premises at any time so we can inspect your property;
- insure the property held by us as security with an all-risks insurance policy satisfactory to us that protects your property from all hazards, including fire, theft and collision for motor vehicles;
- amend your all-risks insurance policy to put our interest as “loss payee”, and deliver satisfactory proof of insurance or our form of insurance certificate to us;
- keep the property held by us as security free of any mortgages, liens, charges, or security interest, except the ones granted to us;
- tell us right away if you are involved in a lawsuit or another creditor makes a claim against you;
- tell us right way if any action relation to anti-money laundering and terrorist financing laws and regulations, anti-corruption or bribery laws, as well as laws relating to Sanctions is taken against you
- keep proper accounting records;
- give us all the other certificates, agreements and assignments we may request from time to time that relate to these terms and conditions or the terms and conditions of the Small Business Commitment Letter or the Security Schedule and the granting of security for your indebtedness;
- observe and conform to all laws and requirements of any governmental authority that relate to the environment and the operation of your business activities, and notify us of any failure to do so;
- not change your name (business or personal) without giving us prior written notice;

- undertake and pay the expenses of any environmental investigation, assessment or clean-up which we require;
- notify us of any unfavourable change in the environmental condition of your business premises or equipment;
- notify us of any unfavourable change in the environmental impact of your business activities; and
- authorize us to make, at any time, credit enquiries which may involve full information disclosure, and you hereby waive to the extent permitted by law any right to privacy or confidentiality of credit information.

### **Advances**

If we approve a Credit Line for Business or an Overdraft Protection Facility for Business, or a Scotiabank Business MasterCard Card, you may borrow, repay and re-borrow up to the credit limit specified by us from time to time and, for ongoing credit risk management purposes, you agree to maintain with us all your Business Account(s) as long as you have a Credit Line, an Overdraft Facility or Scotiabank Business MasterCard Card with us. We can, however, cancel your credit line, overdraft facility or Scotiabank Business MasterCard Card and/or any credit facility you have with us at any time and not permit you to borrow or re-borrow after that. The amount of a credit line, overdraft protection facility or Scotiabank Business MasterCard Card facility is paid down and re-advanced as you deposit or withdraw money from these accounts. The amounts available under these facilities may be re-advanced if it is paid down. We may advance you more than the limits established on these accounts based on arrangements made between us from time to time.

If we approve a Term Loan for Business, the Bank may make payments to third parties or advance the proceeds of the loan in one or more amounts as outlined by us.

### **Payments**

You must pay back your indebtedness to us, including without limitation principal, interest, fees and charges according to the terms of the Small Business Credit Agreement, this includes any amounts incurred by the Bank as a result of placing insurance.

If your credit facility is repayable on demand, you agree to immediately pay back the entire amount of the credit facilities at any time if we ask you to do so.

If you borrow by way of a Term Loan for Business, the entire amount of the indebtedness remaining unpaid is due and payable at the end of the term specified in the Small Business Commitment Letter or earlier if you default on any of the terms in the Small Business Credit Agreement, or in any other agreement with us. If you do, we can demand that you immediately pay back the entire indebtedness to us under the Small Business Credit Agreement.

If we demand repayment of the entire amount, we will give you notice in accordance with legal requirements where your Business Account is Domiciled. We can deduct payments from any of your Business Account(s) with us to apply to your indebtedness to us.

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## Interest on Scotiabank Business Credit Products

You must pay interest on your advances at the rate specified by us from time to time. We calculate your interest using the daily loan balance you still owe us. Interest is due and payable as follows:

- for credit lines, interest is payable monthly on the date agreed by you and us.
- for an overdraft facility, interest is payable monthly on the date your Business Account statement is prepared and printed;
- for term loans with non-blended monthly payments, interest is payable on the date agreed by you and the Bank, which is generally at the end of each month; and
- for all other term loans with monthly blended payments, interest is payable together with principal payments on the same date each month as determined by us. Interest is paid in arrears and, for each obligation, is due both before and after your obligation matures and before and after any default or judgment.

If you do not pay the interest when it is due, we may charge a default rate, which is higher than the rate otherwise applicable. If we charge this default rate, it is payable at the same time as specified in the Small Business Credit Agreement for the payment of interest. This default rate may increase your effective rate of interest.

### Pre paying your loan

If you have a term loan with a fixed interest rate, you may prepay it if, at the same time, you also pay a fee equal to three months' interest on the principal amount of the prepayment. This interest is calculated at the rate specified in the Small Business Credit Agreement.

Any prepayment you make is deducted from the last of the payments you owe us. This means you must continue to make the payments specified by the terms of the Small Business Credit Agreement until you have completely repaid the loan.

If your term loan has a floating interest rate, you can prepay it at any time without a fee.

### Fees and charges

There are a number of fees and charges that may apply to your loan or credit facility, including, without limitation, over limit fees, late payment fees, interest charges on all payments you do not make when they become due and overdraft charges. . You agree to pay us these fees and charges which are published by us from time to time and are available at the branch at which your Business Account(s) is maintained. You also agree that we can collect these fees and charges from any account you have with us even if it overdraws the account. This includes any fees and charges described in the Small Business Credit Agreement but may also include any other fees and charges that we may charge.

We may change the fees and charges published by the Bank or described in this Small Business Credit Agreement or in any of the documents that form part of the Small Business Credit Agreement at any time. However, if we do, we will post a notice of the new fees and charges in your domicile branch, before they go into effect. We shall provide you with at least 30 days' notice before any new fees and charges come into effect. If your account is held by The Bank of Nova Scotia Jamaica Limited, we shall provide you with at least 45 days' notice before any changes made to fees and charges come into effect.

### **Loan record**

We will keep a record of the amount of principal, interest costs and fees you owe us. This record will show the amount of each advance we make to you and the amount of each payment of principal and interest costs you make to us. For a Credit Line for Business or Overdraft Protection Facilities we will give you this information monthly, either through statements mailed to you or posted on *Scotia OnLine* Internet Banking. For all other indebtedness such as a Term Loan for Business, we will give you this information when you ask for it.

Unless we have made a mistake, the Bank's record is conclusive evidence of the amount you owe us.

### **Amendments**

You and we may amend the Small Business Credit Agreement at any time but each amendment must be in writing and signed by each of you and us. Any amendment made to this Agreement or the Small Business Credit Agreement may change the business arrangements between you and us, including the legal relationship.

### **Financial review**

We may conduct reviews of your business and financial affairs from time to time, and inspections of your property at any time. We will give you reasonable notice of the time of any review or inspection.

### **Additional agreements**

If we need further agreements for this credit arrangement, you will provide them on our request, and we can register these agreements.

### **Default events**

We have the right to require immediate payment at any time if the Small Business Credit Agreement specifies that a credit facility must be paid on demand. If a credit facility is not a demand loan, we still have the right to demand immediate payment of the entire amount if any of the following events, called default events, occur:

- You use the proceeds of the credit facility for any unlawful or fraudulent purposes or otherwise in violation of applicable laws including laws relating to anti-corruption and bribery, money laundering, terrorist financing, or Sanctions.
- If you are engaged in any unlawful purpose or otherwise involved in the violation

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of any law or regulation including laws relating to anti-corruption and bribery, money laundering, terrorist financing, or Sanctions.

- you fail to pay, when it is due, any payment required by the Small Business Credit Agreement;
- the guarantor fails to pay any amount owing to the Bank on any obligation to us;
- you fail to observe or perform any provision of the terms and conditions in the Small Business Credit Agreement or any other agreement with us;
- you fail to comply with the terms of the security granted to us;
- you, or a guarantor, become insolvent or commit an act of bankruptcy;
- you, or a guarantor, make an assignment or bulk sale of all or a substantial part of your or, its property;
- you sell the property which is secured under these terms and conditions, the Small Business Credit Agreement, except in the ordinary course of business, and with our prior consent;
- a creditor moves to have you or a guarantor declared bankrupt;
- you take a step or a guarantor take(s) a step to make an arrangement with creditors, wind up business or appoint a receiver;
- anyone legally takes possession of a significant portion of your or a guarantor's property, particularly the property which is security for your indebtedness, or obtains a judgment permitting him or her to do so;
- any security required to be provided in the Small Business Credit Agreement and the security schedule is not valid and in force;
- in our opinion, there is any material and unfavourable change in your financial condition, the financial condition of any guarantor or the operation of your business;
- any declaration, representation or warranty you make to us or to any government agency guaranteeing your loan (if applicable) is false in any material way;
- you or a guarantor fails to comply with all applicable provisions of the relevant statutes as it relates to your government guaranteed loan (if applicable);
- the market value of any property that we hold or in which we have a security interest becomes less than the amount we consider satisfactory;
- any property secured is in danger of being lost, damaged or confiscated;
- any guarantee of the credit facilities is withdrawn, determined to be invalid or made ineffective for any reason;
- you are in breach of any term of any other agreement you have entered into with us from time to time, even if it does not relate to the Small Business Credit Agreement;
- you complete any reorganization, amalgamation or merger without our prior permission

in writing;

- there is a change of control in the ownership of your business;
- in our opinion, there is any unfavourable change in the environmental condition of your business premises or equipment; or
- in our opinion, there is any unfavourable change in the environmental impact of your business activities.

### **Default remedies**

If a default event occurs, we are entitled to demand that you immediately pay back the full amount you owe us. We are also entitled to exercise the rights contained in these terms and conditions, or at law.

As well, we are entitled to realize on any security you granted to us under these terms and conditions and any other agreement you enter into with us from time to time. We are not required to take any action, however, and any delay or failure to do so does not release your obligations.

“Realize” includes the right to take possession, sell or lease, foreclose, seize and keep the property which is secured. We may choose how we want to realize. You are responsible for all our costs, including legal fees on a solicitor and his/her own client basis, and for interest on such expenses we have paid. We will charge this interest at the same rate as the interest rate in the Small Business Credit Agreement. We can deduct expenses from your account with us.

If a default event occurs, we also have the following remedies:

- we do not have to make any more advances to you or provide any banking services;
- we can declare you to be in default under any other agreement with us;
- we have, in addition to the rights and remedies in the Small Business Credit Agreement, all the rights and remedies provided by law and under any statute that applies, including all rights of legal and equitable set-off;
- we are entitled to take possession of the property which is secured, and we can enter any of your premises to do so. If we incur any costs to take possession of the secured property, we can charge those costs to your loan account or Business Account, and they will be added to the amount you owe us. The security you grant to us covers these costs;
- we may hold, insure, maintain, repair, process, protect, preserve, prepare for disposition and dispose of the property. If we do, we will charge the costs to your loan account or Business Account, and they will be added to the amount you owe us. The security you grant to us covers these costs;
- we may appoint a receiver or a receiver-manager if we choose to do so. The receiver or receiver-manager will have all our rights, benefits and powers provided by the terms and conditions outlined in the Small Business Credit Agreement or any law, including the right to sell or lease property;

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Once the receiver or receiver-manager has been appointed, he or she has the power, but not the obligation, to operate your business, and may borrow money for that purpose. The receiver or receiver-manager will be your agent, however, and we will not be responsible for any misconduct or negligence on his or her part. If we appoint a receiver or receiver-manager, we will charge the costs to your Business Account or loan account, and they will be added to the amount you owe us. The security you grant us will cover these costs and any money borrowed by the receiver or receiver-manager.

### **Sale of secured property**

We are entitled to seize or foreclose and take the property which is the security for your indebtedness. If we do, we will consider the indebtedness to be repaid to the extent required by law.

We can choose how to deal with the property once we can realize. We are entitled to realize at any time after you default on any of the requirements of these terms and conditions or we have demanded payment and you have failed to pay in full. We are only required to give you the notice required by law.

We can sell property in any way we choose, including private sales and auctions. We may purchase the property for ourselves in any sale process and we can accept deferred payment terms in any sale.

If we sell the property, we may apply the proceeds of the sale to the costs and expenses including without limitation, receivership costs and legal fees on a solicitor and his/her own client basis, and then to repay your obligation to us as we determine. After that, we will pay you any remaining amount as required by law.

You must pay any remaining amount if the proceeds from the sale or the value of the property seized or foreclosed is not enough to repay your entire obligation to us. We are only required to be reasonable in the sale, seizure or foreclosure process. We are not required to get the best price or wait to sell if the market is not good.

### **Additional terms applicable to Scotiabank Business Credit Products**

#### **Security agreement**

By signing the Small Business Commitment Letter and the Business Account Application thereby agreeing to these terms and conditions, you agree to grant us a mortgage and charge, and hereby grant, bargain and sell to the Bank for security purposes and grant a security interest in the property that is provided for in the Small Business Commitment Letter or the Security Schedule.

Our security interest may also include all your rights, interests and benefits in that current property and property acquired in the future and may specifically secure your obligation under any agreement with us.

The security interest you grant us may be in the form of a fixed and specific mortgage. We may register your grant of security against the secured property in such registries as we choose, including personal and real property registration systems.



If the collateral covered by the security interest includes your book debts, you shall assign and transfer to us all book debts, such as accounts receivable.

Where required by the Bank or by law, we will physically hold the property as security for your obligations to us, which may include securities in uncertificated form by notice to the relevant clearing corporation. The grant of security and mortgage includes any grant, bargain and sale required to complete this grant of security and mortgage. It also includes our right to have and to hold property for the purposes of this agreement and the Small Business Credit Agreement. If we hold securities in our possession, we are not required to keep them separate from other securities held.

If the Bank holds property, we are not responsible if the property decreases in value for any reason. Should you provide the Bank with money or cash equivalents as security, we shall be entitled to seize the money or cash equivalents and immediately set-off against your indebtedness.

You shall at our request grant to us a security interest on all present property and property acquired in the future, including inventory, furniture, fixtures, office equipment, industrial equipment, machinery, plant, tools, vehicles, intangible personal property, securities, documents of title, instruments, chattel paper, money and accounts receivable. Except as otherwise agreed, this security interest:

- shall be granted when the limits for all credit lines, Scotiabank Business MasterCard Cards and overdraft facilities (“Credits”) approved under the Scotiabank Small Business Credit Agreement plus the limits for any existing Credits total more than fifty thousand dollars (\$50,000); and
- shall secure all Credits approved under this application and any existing Credits.

The mortgages and security interest you grant to us are to secure payment and performance of all your obligations to us that are described in these terms and conditions, the Small Business Credit Agreement and any other agreement you enter into with us. These obligations include but are not limited to:

- the repayment of the principal amount of all indebtedness to us;
- the payment of interest to us, including without limitation, interest on overdue interest at the default rate; and
- the payment of all our costs, charges, expenses and fees, including without limitation, legal fees on a solicitor and client basis that relate to the Small Business Credit Agreement, this agreement or the enforcement or realization of security.

All attachments, accessories, parts, repair parts and other equipment, to the extent applicable, become part of the property secured and described in the Small Business Commitment Letter or the security schedule as being covered by the security interest you grant us.

The grant of security over any property described in the Small Business Commitment Letter or the security schedule includes all proceeds, money and property from the

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secured property, including insurance proceeds whether it is cash or other proceeds of any nature and kind. It also includes all your records relating to your business and the property that is secured.

The time for attachment of any security interest created has not been delayed. The security interest attaches, which means to take effect, when you sign these terms and conditions or when you sign the Small Business Commitment Letter.

You acknowledge that you have received and read a copy of these terms and conditions. You waive the right to receive a copy of any financing statement, financing change statement or verification statement we may register or receive, where permitted by applicable law.

### **Guarantee and obligations of the guarantor**

Each guarantor agrees to be bound by the following terms of the guarantee:

- the guarantee is a continuing guarantee, is not released by any change in capacity or death of the guarantor, and is security for the indebtedness that is guaranteed to us;
- this guarantee is given for valuable consideration;
- the guarantor agrees that he or she is responsible to us to the maximum extent permitted by applicable law for all indebtedness and obligations outlined in the Small Business Credit Agreement, including all interest, fees, commissions, legal and other costs and all charges and expenses, unless these obligations are limited by the terms of the guarantee agreed to by the guarantor and the Bank;
- we are entitled to demand payment from a guarantor even if we have not tried to get payment from you, any other person, any other security or any other guarantee or guarantor; and
- we do not need to demand or get payment from all guarantors; we can demand and get the whole amount from any guarantor or guarantors we choose (this is often called joint and several liability).

If you default on any payment owed to us, we are entitled to treat all guaranteed liabilities as due and payable. We may then immediately demand and collect the total guaranteed amount from the guarantor.

The guarantor must pay us immediately after we demand payment and the guarantor's liability to make payment arises forthwith after such demand. We will demand payment in writing and will mail or deliver our letter to the guarantor's address.

Until we are paid in full, the guarantor agrees that its interests including all amounts owing by you (the business customer) to the guarantor are fully postponed to us, waives all rights to take legal action against the business customer and to exercise rights of subrogation, which are the rights to take our position and security. We are not required to marshal property, which is the act of realizing security in a certain order.

The guarantor's liability includes the liability to pay any interest you have not paid, and interest from the date of demand. This interest is charged at the applicable rate in the Small Business Credit Agreement.

The guarantor must also pay all of the costs and expenses we incur to get the money you owe us, including any costs and expenses of collecting from the guarantor including without limitation legal fees on a solicitor and his/her own client basis.

The guarantor is not released from the guarantee if, from time to time, we change the terms of your indebtedness, or if we deal with you on different terms than in the terms and conditions of the Small Business Credit Agreement. These changes include the terms of the credit arrangements and the granting of time, extensions, renewals, indulgences, releases and discharges. We do not have to notify the guarantor if we make any of these changes.

This guarantee is not discharged or affected by any change in your capacity or status, including bankruptcy or other insolvency, even if we advance more money after the bankruptcy or insolvency.

This guarantee is in addition to any security and any other guarantee we hold. The liability under the guarantee may be limited, however, only if the limitation is set out in the Small Business Credit Agreement.

### **Terms applicable to Overdraft Protection Facility for Business**

Overdraft Protection Facility for Business is a credit arrangement for occasional short term borrowing involving a specified Business Account. If you are approved for overdraft protection facility, we will honour debit entries (“debits”) originated by you (e.g. cheques, withdrawals, electronic funds transfers, etc.) drawn on your specified Business Account, even if this creates an overdraft. You agree to pay interest on the amount of the overdraft at the rate specified by us from time to time.

You will bring your Business Account to a positive/credit balance within thirty (30) days from the day when the overdraft occurred. We do not have to honour any debit if the action would result in your specified overdraft limit being exceeded, if your specified Business Account has been overdrawn for more than thirty (30) days, or if we have made a demand for payment. In addition, we can cancel the overdraft protection facility for your specified Business Account at any time without notice, and refuse to honour any further debits that create an overdraft.

If we have not agreed to provide overdraft protection facility, we do not have to honour any debits that create an overdraft. We do not have to tell you that we are not going to honour a debit in these cases.

### **Terms applicable to Scotiabank Business MasterCard Cards**

In this section, “Card(s)” and “Scotiabank Business MasterCard Card(s)” mean, as applicable, the Scotiabank MasterCard Business Card, the Scotiabank Aero Business Executive MasterCard Card or the Scotiabank AAdvantage® Business Executive MasterCard Card.

Definitions applicable to Scotiabank Business MasterCard Cards:

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**Principal Cardholder** means the person designated as the owner of the business.

**Secondary Cardholder** means one (1) additional owner or partner of the business.

However, both terms “Principal Cardholder” and “Secondary Cardholder” exclude corporations.

**Statement cycle** refers to the number of days between one statement date and the next statement date.

If you sign the reverse of the Card when we issue you a Scotiabank Business MasterCard Card, or provide you with a renewal or replacement Card(s) and you keep or use the Card(s), you agree to the terms and conditions of this Small Business Credit Agreement. Your Business Account Application together with your Personal Net Worth Statement is incorporated into and forms part of this Small Business Credit Agreement.

If the business customer consists of more than one individual or entity, you agree that:

- every such person is responsible jointly and severally for the payment and performance of each obligation described in the Small Business Credit Agreement or derived therefrom; and
- the Bank can choose among you who will pay back the obligations.

If we approve a Scotiabank Business MasterCard Card, you agree to be bound by the terms applicable to the Scotiabank Business MasterCard Cards and the Scotiabank MasterCard BusinessCard Cardholder Agreement that is provided to you when the Scotiabank Business MasterCard Card is issued and delivered to you by us.

Both the Scotiabank Business MasterCard Cards terms and the Scotiabank MasterCard BusinessCard Cardholder Agreement are collectively referred to in this section as the (“Scotiabank Credit Card Agreement”).

### **Using the Scotiabank Business MasterCard Card**

You can use the Scotiabank Business MasterCard Cards and the Scotiabank credit card cheques, (if available in your country. Please visit your domicile branch to determine availability), we supply to you, wherever they are accepted to buy goods or services (“Purchases”) for business purposes, and for other purposes we may authorize from time to time. Any use of the Cards is subject to any legal restrictions and/or regulations or procedures that the central bank of the country in which the Card was issued or any other governmental or other authority may impose. You may not use your Card or Scotiabank credit card cheques for any transaction that is illegal, including the purchase of good or services that are prohibited by law applicable in the jurisdiction in which the Card was issued. At your request, we will supply you with additional Cards for Purchases and/or cash advances. You acknowledge and agree that we can decline any transaction that we consider to be in breach of such legal restrictions, regulations or procedures.

Using the Scotiabank MasterCard BusinessCard New Account/Change Request Form or the Scotiabank MasterCard BusinessCard Additional Cards Form, you will designate for us certain employees (“Designated Cardholders”) to a maximum of five

(5) Designated Cardholders to whom we will issue a Card embossed with the name of the business (if applicable) and the Designated Cardholder's name. For greater certainty, Designated Cardholders include the Principal Cardholder, the Secondary Cardholder and all additional cardholders on the account. You may impose use restrictions for any Card issued to you, so long as your Card use restrictions comply with the terms of this Scotiabank Credit Card Agreement, the MasterCard regulations, and applicable laws. You are solely responsible for all activities of the Designated Cardholders, and are responsible for obtaining from the Designated Cardholders any agreements or commitments you consider necessary to govern their use of the Cards.

Designated Cardholders may obtain cash advances from financial institutions that accept the Card. By using the Card with a personal identification number ("PIN"), Designated Cardholders can also obtain cash advances at any automated teller machine ("ATM") that we designate and displays the MasterCard/Cirrus<sup>®</sup>† logo. If a Card is used by a Designated Cardholder to obtain a cash advance, you are assumed to have authorised the transaction. We are not liable to you if a merchant, a business or an ATM does not accept your Card or any Scotiabank credit card cheque for any reason.

You agree that all transactions, including all Purchases made using the Cards or by Scotiabank credit card cheques and all cash advances made using the Cards, will be for your business purposes only. Your violation of this provision does not relieve you of your obligations to repay us for all such amounts along with any interest, fees or other amounts you may owe us pursuant to this Agreement.

### **Automatic Teller Machines (ATMs)**

The amount you can withdraw each day on a Card as a cash advance from an ATM is limited to the amount of the Individual Credit Limit (defined below) and is also subject to the ATM withdrawal limit set by us or the other financial institution. We may vary the ATM withdrawal limit from time to time without notice.

The amount that can be withdrawn each day as a cash advance on the Card in an over-the-counter transaction at a financial institution is limited to the amount of the Individual Credit Limit and is also subject to the daily allowable cash advance limit that we assign for your Cards. We can vary the cash advance credit limits from time to time without notice. Over-the-counter transactions using a Card are subject to Card verification and authorization by the financial institution processing the transaction.

We, our officers, directors, employees and agents are not liable for any losses or damages you may suffer as a result of unauthorized cash advances obtained by Designated Cardholders using the Cards at anytime. You are responsible for the repayment to us of all cash advances obtained by a Designated Cardholder, including interest thereon, prior to your notifying us that a Card has been lost or stolen.

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## Warranties and representations

We will not be liable for the inability to perform the whole or any part of the features, benefits or services contemplated under the Small Business Credit Agreement that are reasonably beyond our control. In no event will we be responsible for the acts or activities of any third party.

We will not be liable for any damages of any kind related to your or any Designated Cardholder's use of the Cards or any of the features, benefits or services contemplated in this Small Business Credit Agreement even if you've notified us in advance of such possible damages.

## Identification

You warrant that, prior to requesting Cards for any potential Designated Cardholder, you shall have obtained, verified, and recorded information that confirms the identity of each potential Designated Cardholder and will provide this information to us upon request. Further, you warrant that any Card request sent to us by you shall only be for a potential Designated Cardholder who has been screened, whose identity has been verified and who is allowed to be issued a Card by, but not limited to, applicable laws, regulations and guidelines related to the prevention of money laundering and funding of terrorism with which financial institutions must comply.

## Making a minimum monthly payment

(Applicable to the Scotiabank Business MasterCard Cards and the Credit Line for Business) We will provide a monthly statement containing information about each transaction during the statement period (the "Monthly Statement") addressed to each Designated Cardholder. For the Credit Line for Business, we will provide you this information either through statements mailed to you, or posted on *Scotia OnLine* Internet Banking. All Monthly Statements will be sent to the Business' mailing address. All indebtedness incurred through the use of your Card or the Credit Line for Business is billed and payable in the currency of the Card or the currency of the Credit Line for Business, as applicable. You can make payments at any of our branches in the country in which the Card or the Credit Line for Business was issued.

The minimum monthly payment amount due will be indicated on each Monthly Statement. Minimum monthly payment amounts are calculated as outlined in the Bank's rates and fees schedule that is provided to you with your Card or available from your domicile branch or as advised by us from time to time. If you do not repay your debt in full by your statement payment due date, you agree to make the minimum monthly payment in the currency stated in the Monthly Statement. Interest is payable on cash advances, Scotiabank credit card cheques and balance transfers from the transaction date indicated on the Monthly Statement to the date payment is received in full. We will tell you the minimum required payment on each Monthly Statement. We may require a different monthly payment and will notify you of this beforehand. Any overdue payment or overlimit amount must be paid as soon as you receive your



**Monthly Statement.** We can debit the minimum payment amount, overdue payment, overlimit amount or any outstanding amount from any of your Scotiabank Business Accounts on the due date shown on the Monthly Statement.

You authorize us to debit any of your Business Accounts for all or any portion of the debt you owe to us.

### **Applying payments**

We apply payments first to any previously billed interest charges, then to any annual fees, service charges or fees or insurance premiums, then to any previously billed cash advances or Scotiabank credit card cheques. Next, we apply them to any previously billed Purchases, then to any unbilled cash advances or Scotiabank credit card cheques, then to any unbilled Purchases.

### **Applying credit vouchers**

If a merchant or business issues a credit voucher, we will reduce your debt by the amount of the voucher when we receive it. We apply the credit vouchers first to any billed cash advances then to billed Purchases on which interest is payable. We then apply your credits to any unbilled current cash advances and finally to any unbilled current Purchases.

### **Foreign currency transactions**

All your debt incurred through the use of a Card will be billed and payable in the currency of the Card. All transactions completed in a currency other than in the currency of your Card will be converted and posted to the Monthly Statement (defined below) in the currency of the Card. This includes debit and credit vouchers.

Foreign currency transactions (including both debits (purchases and cash advances) and credits (returns)) to the Card account will be converted to the currency of the Card at the foreign exchange rate equal to the rate determined on our behalf by MasterCard International Incorporated on the date a transaction item is debited or credited to the Card account. We may also add a fee or a percentage mark-up amount to the converted amount however if we do the amount of the fee or percentage mark-up amount will be listed in the rates and fees schedule that accompanies your Card. The exchange rate at the date of conversion may be different from the rate in effect on the date the transaction was made.

For payments made on the Card account in a foreign currency (other than in the currency of your Card), we will use the exchange rate normally charged to our customers on the date the payment is posted to the Card account. This rate is subject to change from time to time and is available from your domicile branch.

We will not assume any risks associated with foreign currency exchange gains or losses from cross-currency conversions resulting from the use of the Card. Any gains made and any losses incurred by you in connection with foreign currency transactions because of currency rate fluctuations between the date the debit is posted and the



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date any subsequent credit is posted to the Card are for your account and shall be payable to or by you (as the case may be).

### **Interest on Scotiabank Business MasterCard Cards**

The interest charge on your Monthly Statement is calculated separately for Purchases and cash advances. You agree to pay us interest on the Card as set out below. You must make payment in full or the minimum monthly payment (as indicated in the rates and fees schedule) of the amount due shown on the Monthly Statement(s) (representing Purchases, cash advances, interest, service charges, stamp duties and insurance premiums (if applicable), transactions or other fees) by the due date shown on the Monthly Statement. We may debit any of your Scotiabank Business Accounts for the full amount due on the due date shown on the Monthly Statements.

### **Interest on cash advances**

If a Card is used to obtain a cash advance, or if you use a Scotiabank credit card Cheque we will charge you interest on each cash advance or Scotiabank credit card cheque from the date of the transaction date to the date it is paid in full. The interest rate and fees applicable to cash advances are set out in the Rates and Fees Schedule that accompanies your Card. Interest is calculated on your cash advances using the average daily balance method. The daily balance is calculated by taking the beginning balance of cash advances, adding any new cash advances and debit adjustments related to cash advances made during the current billing cycle and subtracting any payments or credit adjustments applied to cash advances. The average daily balance is calculated by dividing the total of all daily balances in the current statement cycle by the number of days in the current statement cycle. The current annual interest rate is divided by 365 to determine a daily periodic interest rate. The resulting daily periodic interest rate is multiplied by the average daily balance and then multiplied by the number of days in the statement cycle.

### **Interest on purchases and other charges**

We will not charge you any interest on any Purchase and other charges listed on your last statement if you make a payment in full on or before the due date shown on the Monthly Statement. If payment is not made in full by the due date, we will charge interest at our then current annual rate on each Purchase and other charges from the date of the transaction to the date the balance is paid in full. Interest will be payable on outstanding Purchases and other charges carried forward from prior statements to the last statement until they are paid in full.

Interest on Purchases and other charges for the current billing cycle is calculated by using the two-cycle average daily balance method. The daily balance is calculated by taking the beginning balance of Purchases and other charges on your account, adding any new Purchases, debit adjustments for Purchases and other charges as of the

transaction date, and subtracting any payments or credit adjustments applied to Purchases and other charges. The average daily balance is calculated by dividing the total of all daily balances in the previous statement cycle and all daily balances, less new Purchases and other charges, in the current statement cycle by the number of days in the current and previous statement cycles. The current annual interest rate is divided by 365 to determine a daily periodic interest rate. The resulting daily periodic interest rate is multiplied by the average daily balance and then multiplied by the number of days in the current statement cycle. New Purchases on the current statement are excluded from the current average daily balance, but will be included in the next month's average daily balance if the current statement balance is not paid in full by the payment due date.

The total interest charges appearing on the Monthly Statement will be the sum of the interest charges on cash advances and the interest charges on Purchases and other charges. There may be minor variations due to rounding.

### **Cancelling Cards and this Agreement**

You will promptly advise us if a Designated Cardholder ceases to be authorized to use the Card, and you will retrieve all Cards and Scotiabank credit card cheques and surrender such Cards and Scotiabank credit card cheques to us.

We can cancel this Agreement at any time without any prior notice to you and require you to give your Cards and the Scotiabank credit card cheques back to us or to someone acting on our behalf, upon our demand. Cancellation of Cards by either party does not relieve you of your responsibility to pay any debt you may owe to us. The Card is always our property.

If a Designated Cardholder has used the Card to authorize pre-authorized payments on a continuing basis you are responsible for all such charges to the Card until you terminate such pre-authorized payment arrangements with each payee. You will require each Designated Cardholder to provide a current list of all such pre-authorized payment arrangements that are to be paid by the Designated Cardholder through use of the Card.

On the cancellation of the Card by you following the cancellation of a Designated Cardholder's use of the Card (either during employment or following termination of the employment of a Designated Cardholder) or on termination of this Agreement, you will notify the payees of all such pre-authorized payment arrangements that all future pre-authorized payments on the Card are immediately cancelled and will be returned by you if processed on behalf of the payee.

### **Observing your Card's expiry date**

You agree not to use any Card after the expiry date embossed on a Card. If a Card is used after its expiry date, you agree to pay any debts that are related to or arise from such use.

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## **Not exceeding your credit limit**

In connection with the use of all the Cards supplied to you, the Bank has assigned you an aggregate credit limit as set out in the Small Business Commitment Letter. Each Card is subject to an individual card credit limit (“Individual Credit Limit”) set out in the Scotiabank MasterCard Business Card New Account/Change Request Form or in the Scotiabank MasterCard Business Card Additional Cards Form. You are responsible for ensuring that the aggregate credit limit and the Individual Credit Limits are not exceeded.

We may change the aggregate credit limit or an Individual Credit Limit at any time without telling you in advance. At our option, we may issue a notice to you about the changes. The notice will be a binding agreement between you and us and may not require a written signature from you. Any such notice shall form part of the Small Business Credit Agreement.

## **Insurances**

Optional Scotiabank MasterCard for Small Business Credit Protection Plan (creditor life and critical illness insurance) may be available. A separate application for insurance is required. Some limitations and exclusions apply. Insurance certificates will be delivered to you, as applicable, at the time of insurance enrollment. Insurance premiums will be charged to the Card account.

## **Optional services**

Certain features, benefits and services are provided automatically with the Card. You understand that optional services may be available at an additional cost to you. You understand that all services available with your Card may be governed by separate agreements or authorizations which you agree to be bound by. You also understand that firms independent of us may supply some Card features, benefits or services and that we are not responsible for nor liable for them in any way.

## **Telling us about loss, theft or unauthorized use**

You will inform your branch or Small Business Banking Centre as applicable, immediately and in writing upon discovering the loss, theft or unauthorized use of any Card, PIN or Scotiabank credit card cheque issued to you or a Designated Cardholder.

If you even suspect the unauthorized use of any Card, PIN or Scotiabank credit card cheque you will notify us immediately. In case you are unable to reach us immediately, please contact MasterCard International at 1-800-307-7309 (toll free from Canada, USA, The Bahamas and the Caribbean) or collect at (636) 722-7111.

In accordance with applicable law, if any Card and/or Scotiabank credit card cheque is lost or stolen, you will be liable for all debts, including accrued interest, resulting from their use until you have told us that they have been lost or stolen.

### **Security**

If your Card account is secured by a mortgage or security agreement, you agree to not further encumber the property without our prior written permission. If you sell the property which is subject to the mortgage or security agreement, you agree that you will immediately repay to us all amounts owing under this Agreement.

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## Our Commitment to You – Satisfaction Guarantee

When we make changes or when you open a Business Account, we always want to ensure that we are helping you find the right Business Account for your banking needs. If you are not satisfied with the changes made to your Business Account, you may select an alternate Scotiabank Business Account within ninety (90) days of the effective date of changes.

On request, we will refund the difference, if any, between the fees paid on your Business Account and the fees that you would have paid with your alternate Business Account choice on the effective date of the changes.

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