



## **TERMS & CONDITIONS OF CUSTOMER ACCOUNT (THE "AGREEMENT")**

TOR01: 4689763: v14 Page 1 of 8

For good and valuable consideration, each individual who has agreed to previous terms and conditions relating to the operation of a deposit, savings, chequing or current accounts with SBI Canada Bank (the "**Bank**"), each individual who has completed a personal account application form either in paper, electronically or online, or each individual who has otherwise accepted this Agreement (the "**Customer**") agrees with the Bank that operation of each deposit, savings, chequing or current account (the "**Account**") which the Customer now or hereafter maintains with the Bank at any of its branches or agencies shall be subject to the following terms and conditions of this Agreement, as amended from time to time.

### **A. TERMS OF THE ACCOUNT**

#### **1. General Access to and Use of the Account:**

The Customer may use the Account for personal banking purposes only, and may not use it for business purposes. The Customer's use of the Account is subject to requirements and limits set by the Bank, including but not limited to dollar or daily limits, means of transacting (e.g. Part B - Debit Card and Electronic Banking Services and Part C – Online Banking Services), and any concerns that the Bank, in its sole discretion may have, regarding the propriety of transactions relating to the Account.

#### **2. Chequing Services:**

The Customer may draw cheques and other payment items only on those Accounts to which such privileges apply. The Customer must use cheques and other payment items that are encoded in a manner satisfactory to the Bank and are drawn on the Account for which the cheque is encoded, and shall conform to the rules and standards set from time to time by the Canadian Payments Association (the "**CPA**"). The Bank shall not be responsible or liable for any loss or damage arising from the wrongful acceptance of a cheque or refusal by the Bank to honour any cheque or other order for payment by the Customer on an Account other than the Account for which the cheque is encoded, or at a branch where no Account is maintained by the Customer. Unless the Customer otherwise instructs the Bank, where there are sufficient funds in the Account the Bank shall honour all withdrawal slips, orders and cheques drawn on the Account where the Instrument (as defined below) bears a signature conforming to the specimen signature provided by the Customer, subject to applicable hold periods disclosed to the Customer from time to time. All stop payment orders on any cheque issued by the Customer must be in writing and signed by the Customer. The Bank may transit cheques, bills of exchange and other documents and instruments for computer processing, clearance and settlement or other purpose by such means as the Bank may consider appropriate. The Bank will not be liable to the Customer for acts or omissions of third parties however caused. The Bank is not liable for any loss, theft, destruction or delayed delivery of any Instrument during delivery to such third party, or while such third party has possession of such Instrument. Deposit items (including money transfers) of any description other than Canadian and foreign currency will be provisionally credited to the Account, and the Bank may restrict the right of the Customer to withdraw against deposit items other than such currency until the items have cleared, and where any deposit items is not duly paid, the amount of that item may be debited to the Account. Where the Account is a chequing account, the Customer shall take reasonable care of all cheques and keep them in a safe place, and shall report any loss or theft of cheques to the Bank.

#### **3. Waiver of Protest:**

Subject to any specific instructions which the Customer gives to the Bank in writing, the Customer waives in favour of the Bank every presentment for payment, notices of dishonour and protest and notice of protest of all bills of exchange, promissory notes, cheques, orders for payment of money, securities, coupons, notices (all or any of which are hereinafter collectively or separately referred to as "**Instrument(s)**", as the case may be) drawn, made, accepted or endorsed by the Customer now or in the future and delivered to the Bank at any of its branches or agencies for whatever purpose. The Customer shall remain liable to the Bank as if presentment, notice of dishonour and protest and notice of protest has been duly made or given. Notwithstanding the foregoing, where the Bank considers it in the best interest of the Customer or the Bank that any Instrument be noted or protested for any reason, the Bank may do so accordingly but the Bank shall not be liable for any failure or omission to note or protest any Instrument.

#### **4. Interest, Customary Terms and Charges:**

The Bank shall pay to the Customer interest on the Account at rates as disclosed to the Customer from time to time. Where changes are made in the rate of interest or manner of calculating the amount of interest applicable to the Account, the Bank shall notify to the Customer in whose name the account is maintained. The Bank may handle the Account in accordance with its customary procedures and arrangements for account services of the type requested. The Bank may charge and the Customer shall pay the Bank's normal service charges for the operation of the Account and for any services of the type requested (including, without limitation, those incurred in connection with the Electronic Banking Services and Online Banking Services described below), as disclosed to the Customer from time to time, including charges for payment items payable to the Customer that are returned for insufficient funds. The Bank may debit all service charges to the Account.

#### **5. Authority to Charge Account:**

The Bank is authorized to charge the Account with the following:

**(a) For Instruments Drawn on and Debits to Accounts:** The amount of any Instrument payable by the Customer at any branch or agency of the Bank or any debit in connection with the Electronic Banking Services or Online Banking Services described below.

**(b) Unpaid Bills:** The amount of any Instrument cashed or negotiated by the Bank for the Customer or credited to the Account for which payment is not received by the Bank and the amount of any other indebtedness or liability of the Customer to the Bank including, any expenses incurred by the Bank in connection with payment of a dishonoured or unpaid Instrument or transaction. The Customer is liable to the Bank for the amount charged and will pay on demand any overdraft, together with interest thereon at the interest rate charged by the Bank from time to time for overdrafts, if such overdraft is permitted by the Bank, in its sole discretion. Notwithstanding such charging, all rights and remedies of the Bank against all parties are preserved.

**(c) Lost, Stolen Instruments:** The amount of any Instrument received by the Bank for the Account by way of deposit, discount, collection or otherwise, if it is stolen or otherwise disappears for any reason whatsoever other than gross negligence on the part of the Bank.

**(d) For Account Operations:** Any expenses incurred in connection with or arising out of the operation of any of the Account or any other account of the Customer with the Bank whether or not this creates or increases an overdraft; and

**(e) For Taxes:** All amounts collectible by the Bank as taxes on the supply, sale or support of other products or services.

## **6. Information Storage:**

TOR01: 4689763: v14 Page 2 of 8

All information relating to the Account shall be maintained or stored by the Bank in such form and for such time by any means of such devices as are generally accepted in the banking industry or authorized by law, including but not limited to paper, digital or electronic forms. The Customer acknowledges and agrees to the Bank's retention of such information in any such form as if the said information were in its original form. Subject to the provisions of this Agreement relating to the verification of the Account and transactions, the records of the Bank are prima facie evidence of the state of Accounts between the parties for all purposes including litigation. The Bank may use the services of any electronic data processing service bureau or organization in the performance of its services. The Bank shall not be liable to the Customer for any act or omission of such service bureau or organization in the performance of its services. The Bank is under no obligation to retain original documents, Instruments or vouchers other than those belonging to or entrusted to the Bank by the Customer for safekeeping.

## **7. Verification of Statement Relating to the Account and related transactions:**

The Bank shall render each month (unless otherwise instructed in writing) to the Customer a statement relating to the Account, provided there has been at least one transaction on the Account. The Customer acknowledges and agrees to the Bank's provision and delivery of the statement relating to the Account in paper format or electronically as further outlined below in Section D.3. If this is a Joint Account (as defined below), the Customer that receives the statement of Account shall deliver copies of the statement of Account to the other Customers. The Customer shall advise the Bank promptly if the monthly statement has not been received within 10 days of the date upon which it is normally received.

Upon receipt of such statement, the Customer shall check the debit and credit entries, verify the Account transaction information to ensure the Customer's electronic and online payments made by Electronic Banking Services or Online Banking Services described below are accurate and have been successfully and correctly processed. The Customer shall notify the Bank in writing of any errors, irregularities or omissions. This notice must be provided to the Bank within 30 days of the statement date.

Except as to any alleged errors, irregularities or omissions outlined in the Customer's notice to the Bank and subject to the right of the Bank to charge back items for which payment has not been received, at the expiration of the 30 day period, the statement, the balance shown on the statement and any Account transactions shall be conclusively settled between the Bank and the Customer and shall be deemed valid and correct. The Customer shall be deemed to have verified the validity of any instructions and the use of any service shown. The Customer shall not be entitled to be credited with any sum not disclosed as credited in the statement. The Customer shall not claim, for any purpose or reason, that any entry on the statement, the balance or any Account transaction is incorrect and will have no claim against the Bank for reimbursement relating to such entry or transaction even if the instruction charged to the Account was forged, unauthorized or fraudulent.

## **8. Application of Funds to Account:**

If there should be insufficient funds in the Account to pay an Instrument or any fees or service charges which the Bank is authorized to charge under this Agreement, then the Customer shall be liable for, and the Bank shall be entitled to charge any other Account which the Customer may have at any branch or agency of the Bank with the amount of such Instrument or such fees or service charges.

## **9. Consent and Disclosure of Personal Information:** The Customer consents to:

(a) the collection by the Bank of personal information (including financial and related information to determine the Customer's identity, eligibility for products and services, or for the Bank's regulatory purposes) about the Customer directly from the

Customer or from other persons, including credit bureaus and persons with whom the Customer has had or may have financial dealings;  
Page 3 of 8

(b) the use and disclosure by the Bank of personal information to, amongst other purposes, identify the Customer, protect the Bank and the Customer from error and fraud, understand the Customer's needs and eligibility for products and services, recommend particular products and services to fit the Customer's needs, provide ongoing service and for the Bank's compliance with legal and regulatory requirements;

(c) the offer to the Customer of products and services that the Bank believes may be of interest to the Customer (unless the Customer has "opted out" of such use); and

(d) subject to such opting-out, the disclosure of non-sensitive personal information to affiliates and selected third party companies so that they can offer products and services, such as credit or debit cards or internet banking, to the Customer.

The Privacy Policy is available by calling toll-free 1-866-SBIC-NOW, writing to SBI Canada Bank, Suite 106, 77 City Centre Drive, Mississauga, ON Canada L5B 1M5 or visiting the Bank's website at [www.sbicanada.com](http://www.sbicanada.com). The Customer may opt-out for purposes stated above by calling toll-free 1-866-SBIC-NOW, writing to SBI Canada Bank, Suite 106, 77 City Centre Drive, Mississauga, ON Canada L5B 1M5.

#### **10. Joint Accounts:**

If more than one individual has entered into terms and conditions relating to the Account or completed a personal account application form, then the Account shall be a "**Joint Account**" and each individual signatory shall be a Customer for the purposes of this Agreement. Each Customer shall be jointly and severally liable (in Quebec, solidarily) to the Bank to perform all the obligations, be liable for all liabilities related to the Joint Account under this Agreement and shall agree to all the terms and conditions in this Agreement, irrespective of which signatory to the Account undertook the obligation or incurred the liability.

Each Customer shall have access to historical and current transaction details or any other details relating to the Joint Account, and each Customer agrees that the other may have the same access.

Each Customer expressly intends and agrees that any interest in the Joint Account shall be owned by them as joint tenants with full rights of survivorship, and not as tenants-in-common, and that the Bank is entitled to treat any interest in the Joint Account in this manner. The Bank may accept any instructions from either Customer, including honouring an Instrument, processing transactions in connection with Electronic Banking Services and Online Banking Services described below, or accepting any direction in respect of the Joint Account without requiring the authorization or consent of the other Customer, subject to any written instructions by both Customers to the contrary.

Each Customer agrees that if one Customer is removed from the Joint Account by agreement of both Customers, or in the sole discretion of the Bank, acting reasonably, the Joint Account shall be closed.

If either Customer dies, the deceased Customer's interest in the Joint Account shall pass automatically to the surviving Customer, without releasing the deceased Customer or their estate from any liability arising from the Joint Account until such time that the Bank has received satisfactory evidence of the death. The Bank shall not be liable for any loss, damages or legal costs incurred in any dispute between the estate of the deceased Customer, the surviving Customer or third party arising from the Bank acting on the right of survivorship.

#### **B. TERMS OF DEBIT CARD AND ELECTRONIC BANKING SERVICES**

Part B of this Agreement applies to the use of any card that is issued by the Bank in the Customer's name, the Customer's attorney's name or signed by the Customer or the Customer's attorney and to the use of the number embossed on or associated with any such Card unless otherwise specified ("**Card**" or "**Debit Card**"), and to the Customer's personal identification number password or any other number or word used with the Card ("**PIN**") for Electronic Banking Services (as defined below).

##### **1. Use of Your Card & PIN:**

The Customer may use the Card and PIN to access the following services (the "**Electronic Banking Services**"): Interac, Cirrus, Maestro and Exchange Network Automated Banking Machines (ABMs); Point of Sale (POS) debit card terminals such as Interac terminals, or any other electronic banking service which the Bank may offer to the Customer from time to time to use with the Card and PIN. By using the Card or any Electronic Banking Service the Customer acknowledges and agrees that the Customer has received, understood and agreed to this Agreement and to the use of Electronic Banking Services in accordance with the terms of this Agreement, as amended from time to time. The Customer shall not use Electronic Banking Services for illegal, fraudulent or defamatory purposes or take any steps which could undermine the security or integrity of any Electronic Banking Service, or cause harm to or threaten to harm any other user of Electronic Banking Services, or to the Bank.

##### **2. Accounts and Electronic Banking Services:**

The Customer may choose which Electronic Banking Services the Customer wishes to access through the Card. The Customer acknowledges that the Customer may designate the Account the Customer wishes to link to the Card for access at ABMs and POS terminals. The Customer further acknowledges that the Customer may have access to all of the Account through internet banking ([www.sbicanada.com](http://www.sbicanada.com)) or by visiting a branch. Where the Account has overdraft protection or is linked with another Account having

some or all of these features, the Customer will have access to these features and the balances in those Accounts through Electronic Banking Services.

TOR01: 4689763: v14 Page 4 of 8

### **3. Card and PIN Security and Confidentiality:**

The Customer is responsible for the care and control of the Card and PIN. The Customer must keep the Card and PIN confidential and take every reasonable precaution to maintain them safely. This includes keeping physical possession of the Card, never keeping a written record of the PIN with the Card, avoiding PIN combinations that may be easily determined by others such as the Customer's name, birthday, phone number, address, Social Insurance Number etc.; not disclosing the PIN voluntarily to anyone else at any time, including to a family member, friend, financial institution employee or law enforcement agency; and taking all reasonable precautions to ensure that no one finds out the PIN while keying it in or logging into an Electronic Banking Service.

### **4. Customer Liability for Transactions:**

The Customer is responsible for the full amount of all activity on the Account completed through an Electronic Banking Service resulting from: the use of the Card and/or PIN by the Customer or any person to whom the Customer has made the Card and/or PIN available where the Customer has not been the victim of fraud, trickery, force, intimidation or theft; the Customer's failure to notify the Bank as soon as the Customer becomes aware that the Customer's PIN may have become known to someone else or the Card has been lost, stolen or misused; or an entry error or a fraudulent deposit made through an Electronic Banking Service. In these cases, the Customer shall be liable for losses in the Accounts. The Customer's liability may exceed the credit balance or other available funds in the Account; for example, if the transaction is completed on the basis of any entry error or a fraudulent deposit made through an Electronic Banking Service. The Customer shall not be liable for transactions completed through an Electronic Banking Service where it can be shown that the Customer has been a victim of fraud, theft or has been coerced by trickery, force or intimidation provided that the Customer reports the incident to the Bank promptly and cooperates fully in any subsequent investigation.

### **5. Bank Liability:**

Except to the extent resulting from a breach of this Agreement by the Customer, the Bank is liable for: any unauthorized transaction after the Customer has notified the Bank that the Card has been misused, lost or stolen or that PIN security has been breached; transactions completed through the Card or any other cards that are forged, faulty, expired or cancelled; fraudulent or negligent conduct by the Bank's employees or agents, companies involved in networking arrangements, merchants who are linked to the electronic funds transfer system or their employees or agents; and losses to the Account resulting from any failure, error, malfunction or technical problem of the Bank's system or equipment.

### **6. Transaction Records Activity:**

The Customer shall be offered a transaction record at ABMs and POS terminals for the Customer's convenience to enable the Customer to check the Account entries. The Bank's transaction records shall be conclusive proof of use of the Card or an Electronic Banking Service and shall be considered the Customer's written request to perform the transaction. Even though the Customer may be provided with a transaction record, verification number, or interim statement, the Bank's verification and acceptance of all transactions shall be considered correct and binding unless there is an obvious error. Transactions completed through an Electronic Banking Service may be credited or debited to the applicable Account by the Bank on a date determined by the Bank. This date may be different than the date on which the Customer used the Electronic Banking Service.

### **7. Debit Card Code of Practice:**

The Bank endorses the Canadian Code of Practice for Consumer Debit Card Services and commits to maintain or exceed the level of customer protection it establishes.

## **C. TERMS OF ONLINE BANKING SERVICES**

Part C of this Agreement applies to the Customer's electronic use of accounts and online banking services including: (a) accessing the Account; (b) paying bills online; (c) transferring funds from the Account held at the Bank to another financial institution located in Canada; (d) transferring funds from another financial institution located in Canada to the Account held at the Bank; and (e) transferring funds from the Account held at the Bank to an account located in India ("**Remit to India**") (collectively, "**Online Banking Services**"). The Customer acknowledges and agrees to the Terms of Service for use of the Bank's website.

### **1. Online Banking Security and Confidentiality:**

The Customer is responsible for the care and control of the user ID, password, and/or transaction password (including any codes) ("**Security Information**") used in Online Banking Services. The Customer must keep the Security Information confidential and take every reasonable precaution to maintain them safely. This includes never keeping a written record of the Security Information; avoiding passwords that may be easily determined by others; not disclosing the Security Information voluntarily to anyone else at any time, including to a family member, friend, financial institution employee or law enforcement agency; and taking all reasonable precautions to ensure that no one finds out the Security Information while logging onto or using an Online Banking Service. The Customer is responsible to implement appropriate online security programs and safeguards and will immediately notify the Bank if it is suspected that any security procedure has been compromised or rendered ineffective. The Bank will not be liable in any manner for the consequences, including without limitation for losses or damages, of any unauthorized use of the Security Information by a third party.

## 2. Bill Payment

TOR01: 4689763: v14 Page 5 of 8

The Customer authorizes the Bank to debit the Account, as specified by the Customer, for the purpose of transferring funds to a payee of bill payments through Online Banking Services (the "**Online Bill**"). Payments should be made 3 to 5 business days before the due date of the bill or such other time period recommended by the payee or the Bank from time to time. The Customer shall confirm with the billing institution that the bill has been paid. Any changes or cancellations to a bill payment must be made within the time period specified by the Bank from time to time.

## 3. Domestic Bank Transfer

The Customer authorizes the Bank to (i) debit the account at the financial institution, as specified by the Customer on the applicable Domestic Bank Transfer – PAD Agreement, for the purpose of transferring funds to the Account, subject to applicable hold periods disclosed to the Customer from time to time, or (ii) debit the Account for the purpose of transferring funds to the Customer's account held at another financial institution located in Canada (each, a "**DBT**"). The Bank may, at its sole discretion and from time to time, set limits on DBTs, including without limitation, the number of DBTs made by the Customer or the amount (in aggregate or otherwise) of a DBT. The Customer shall notify the Bank of any changes to the information provided to the Bank regarding the funds transfer pre-authorized debit.

## 4. Remit to India

The Customer authorizes the Bank, and any intermediary or agent bank, to debit the Account specified by the Customer, for the purpose of transferring funds to an account in India (the "**Remittance Request**") and paying any charges in connection therewith. Notwithstanding any error made by the Customer, the Customer is responsible and obligated to complete a Remittance Request once (i) the Customer has entered the applicable Security Information and (ii) such Remittance Request is received by the Bank. A Remittance Request is deemed to be received by the Bank when it is received in the form and with the content specified by the Bank from time to time. Once the Bank has received the Remittance Request, the Customer may not amend or cancel a Remittance Request. The Bank will not be liable for, and the Customer agrees to indemnify the Bank for, any loss or damages arising from any attempt made by the Bank, in its sole discretion, to amend or cancel a Remittance Request. The Customer must pay the Bank the amount specified in the Remittance Request, plus any applicable fees or charges by a debit to the Account, before the Bank will execute the request. The Customer acknowledges that the Remittance Request may not be processed on the same business day the request is made and that such Remittance Request is subject to regulatory verification processes. The Bank is not obligated to execute the Remittance Request and may, at its sole discretion, reject a Remittance Request or set limits on Remittance Requests, including without limitation, the number of Remittance Requests made by the Customer or the amount (in aggregate or otherwise) of a Remittance Request. In the event that a Remittance Request is rejected by the Bank, the Customer may be notified of such rejection by mail, telephone or through the Customer's online account. The Bank is not obligated to re-execute a Remittance Request. The Customer acknowledges that the Bank does not guarantee the Remittance Request. The Customer confirms that any Remittance Request will be made on the Customer's behalf and not on behalf of any third party.

If the details of the parties bearing charges of the Bank or the agent bank are not indicated, the Bank charges will be borne by the Customer and intermediary or agent bank charges will be borne by beneficiary. The Bank is authorized to debit any one of the Customer's account for fees and charges in connection with a Remittance Request. The Customer agrees that the Bank will not be liable for any deduction made by an intermediary or agent bank.

The Bank may take its customary steps for the remittance and shall be free on behalf of the Customer to remit or procure the remitting of funds by mail, telex, cable, SWIFT or any other means as it deems fit and to make use of any intermediary bank, correspondent, sub-agent or other agency but in no case will the Bank or any of its correspondents or agents be liable for interruptions, omissions, human or mechanical errors or delays occurring in the electric transmission, wire, cable or mails, or on the part of any postal authority, telegraph, cable or wireless company, or any employee of such authority or through any other cause. The Bank through its correspondents or agents or otherwise may send any message relative to this transfer in explicit language, code or cipher. The Customer agrees to be bound by any rules or regulations that apply to the payments systems used in connection with the Remittance Request.

Payment of transferred funds is also subject to the rules and regulations of the country where the payment is to be made. In view of the prevalence of exchange restrictions in some countries, any liability of the Bank with respect to the payment of the transferred funds shall not exceed in any case the extent to which payment is allowed in the currency in which the transferred funds are to be sent under any government or other restrictions existing in the place of payment or principal financial centre of the relevant currency or in the case of the Euro, the European Union or any of its member countries, at the time the payment instructions are received or are to be carried out. Neither the Bank nor its correspondents or agents shall be liable for any delay or loss caused by or as a result of any act or order of any government or government agency or the failure of any clearing, settlement or payment system or statute, regulation or any other causes whatsoever.

The Bank may at its discretion convert into foreign currency the funds received from the Customer at the rate as determined by the Bank at its discretion on the day such funds are received/cleared pursuant to its hold period policy. The Bank's statement in writing, whether by transaction record or otherwise, that it has effected such conversion shall be conclusive.

In the event a refund from the Bank of the amount of the transferred funds is desired, such refund shall be made, at the Bank's discretion, to or from the Customer, at the prevailing buying rate for the applicable currency on the day of refund in question, less all costs, charges, expenses and interest (where applicable), provided that (i) none of the events specified below have occurred in respect of the currency in question, and (ii) the Bank is in possession of the funds for which the payment instruction was issued, free from any exchange or other restrictions.

TOR01: 4689763: v14 Page 6 of 8

The Bank shall have no responsibility for or liability to the Customer or any other person whatsoever for any diminution in the value of funds due to exchange loss, taxes or depreciation or for the unavailability of such funds due to restrictions on convertibility, requisitions, involuntary transfers, distraints of any character, exercise of governmental or military powers, wars, strikes or other causes beyond the Bank's control. In addition, (i) if the currency's country of origin restricts availability, credit or transfers of such funds, the Bank will have no obligation whatsoever to pay the funds, whether by way of draft or cash or by any other means in the relevant currency and (ii) in the event of any matter related to EMU (European Economy and Monetary Union) (including but not limited to the disbanding of EMU, the withdrawal of one or more participating states from EMU or any changes in the composition of participating states) which restricts availability, credit or transfers of the Euro or otherwise makes it impossible or impracticable for the Bank to perform its obligations in respect of Euro funds, the Bank will have no obligation to pay the funds, whether by way of draft or cash or by any other means in the relevant currency or any other currency.

#### **5. The Customer's Liability for Transactions**

The Customer is responsible for (i) providing the correct information to complete all Online Banking Services; (ii) ensuring the Account contains sufficient funds to complete the relevant transaction in connection with the Online Banking Service and (iii) complying with all policies and procedures imposed by third parties, the CPA or any other association governing payments in Canada. Each instruction and transaction effected by the Customer through the Online Banking Services (an "**Instruction**") irrevocably authorizes the Bank to act in accordance with such Instructions. The Customer will be responsible for any and all charges and fees resulting in the event any Instructions are not authorized for any reason, including without limitation, for insufficient funds. The Bank is not responsible for errors in the amount or destination of any payments. The Bank does not guarantee payments made by the Customer using Online Banking Services and is not liable for any losses or damages arising as a result of a missed payment or errors in the amount or destination of the payment made in connection with Online Banking Services. The Bank is not liable for (i) failure of any third party's failure to process any Instructions requested by the Customer or (ii) any fees charged to the Customer by a third party in connection with such Instructions.

Notwithstanding any representation made by the Bank regarding the date of payment, the Bank will not be liable in any manner for the consequences, including without limitation, for losses or damages or inconvenience that may be incurred by the Customer as a result of any failure or delay in payments made using Online Banking Services, including where the Customer is unable to access or use the Online Banking Services as a result of any failure, error or malfunction, even where such failure, error or malfunction is a result of negligence of the Bank or its employees, agents or representatives, or results from any regulatory verification process, processing by an agent or third party, legal constraint, interruption of transmission of communication facilities, internet failures or outages, equipment failure, war, terrorism, pandemic events (including the fear of contracting an illness), emergency conditions or other act of God or circumstances beyond the control of the Bank. Under no circumstances will the Bank be liable for any damages whatsoever, whether such damages are direct, indirect, incidental, consequential and irrespective of whether any claim is based on loss arising in connection with exchange rates, loss of revenue, interruption of business or any loss of any character or nature whatsoever and whether sustained by the Customer or by any other person.

### **D. GENERAL TERMS OF THE AGREEMENT**

#### **1. Use of Agent:**

The Bank may use the services of any bank, trust company, courier service or other agent as it may deem necessary in connection with any banking business of the Customer. Any agent the Bank utilizes for any of these purposes may employ sub-agents. Such bank, agent or sub-agent is deemed to be the agent of the Customer and the Bank will not, in any circumstances, be responsible or liable to the Customer by reason of any act or omission of such bank, agent or sub-agent, however caused, in the performance of such service or by reason of the loss, theft, destruction or delayed delivery of any Instrument while in transit to or from, or in possession of such bank, agent or sub-agent.

#### **2. Instructions and Communications**

The Bank shall communicate with the Customer by regular mail to the last known address of the Account, by telephone, fax, email, through the Bank's website or any other method of telecommunication or electronic transmission ("**Electronic Communications**"). The Bank is entitled to rely and act on any communication provided for herein, without any further investigation, as valid authority to act on behalf of the Customer. The Bank shall not be responsible for the security, privacy and confidentiality of any communication, including Electronic Communications, used by the Customer, and the Customer acknowledges and agrees to assume all responsibility for using any communication method, including Electronic Communications, including interception, unauthorized access, loss or alteration of such communication or Electronic Communication.

The Customer authorizes the Bank to accept, and the Customer agrees to be responsible for, any verbal or electronic instructions given by the Customer through an Electronic Banking Service or an Online Banking Service to the same extent as if the Customer had given

signed, written instructions to the Bank. The Bank may record all telephone calls that relate to the use of or include instructions for using Electronic Banking Services or Online Banking Services.

TOR01: 4689763: v14 Page 7 of 8

### **3. Consent to Electronic Notice, Documents and Information**

The Bank hereby notifies the Customer that: (i) the consent to receive notices, documents and other information by Electronic Communication ("**Electronic Documents**") may be revoked at any time by contacting the Bank; (ii) it is the Customer's responsibility to inform the Bank of any changes to his or her contact information relating to the use of the Bank's website or Online Banking Services; (iii) the Bank will make Electronic Documents available to the Customer for the time period specified on the Bank's website and it is the Customer's responsibility to save a copy of all Electronic Documents for future reference; and (iv) the Customer's consent takes effect concurrently with the Customer's acceptance of this Agreement. The Customer designates each of the Bank's internet banking and website ([www.sbcinada.com](http://www.sbcinada.com)) as an information system and acknowledges and consents to receiving Electronic Documents, including: (i) notices of new fees or charges for the use of the Account, Electronic Banking Services or Online Banking Services; (ii) changes regarding interest rates, fees, and charges; and (iii) account statements and transaction records.

### **4. Service Charges:**

The Bank may charge and the Customer shall pay the Bank's normal service charges for the operation of the Account, Electronic Banking Services or Online Banking Services and for any services of the type requested, as disclosed to the Customer / notified by the Bank from time to time on its website. The Customer shall also pay the service charges of any other financial institution that are imposed as a result of any Electronic Banking Service or Online Banking Service. The Bank may debit all service charges to the Account accessed through the Electronic Banking Service or Online Banking Service. If the Customer does not have enough money in the Account to cover the service charges, they may be charged to any other Account the Customer may hold with the Bank, or the Account may be overdrawn.

### **5. Resolving Disputes:**

The Bank is not responsible for any failure to supply, or lack of suitability or quality of, any goods or services purchased from merchants or others through an Electronic Banking Service. The Customer shall resolve any dispute directly with the merchant or other party involved. If the Customer has a problem regarding a transaction completed through an Electronic Banking Service or Online Banking Service that is posted to the Account, the Customer may call 1-866-SBIC-NOW to place a trace on the transaction. After the Customer has reported an unauthorized transaction, the Bank shall attempt to resolve the Customer's issue within 10 business days. If required during investigation, the Bank shall agree to restore the funds against a signed written indemnity. (Note: This may result in a temporary suspension of the 10 day time limit, until the requested information is received.)

### **6. Lost or Stolen Card or Compromise of Security:**

The Customer shall notify the Bank by calling 1-866-SBIC-NOW immediately if: (i) the Card is lost or stolen, or the Customer suspects that the Card is lost or stolen, or someone has used it other than the Customer; (ii) the Customer's PIN has become known to someone else, or the Customer suspects that the PIN has become known to someone else; or (iii) the Customer's Security Information has become known to someone else, or the Customer suspects that the Security Information has become known to someone else. The Customer shall not be liable for any transactions resulting from the loss or theft of the Card or compromise of PIN or Security Information that occur after the time the Customer notifies the Bank about the loss, theft or compromise.

### **7. Currency Exchange Indemnity**

Any conversion from one currency into another in connection with the Customer's use of the Account or Online Banking Services shall be effected in such manner as the Bank may in its sole discretion determine and at the Bank's then prevailing rate of exchange.

### **8. Limitation of Liability and Indemnification by Customer:**

The Bank shall not be liable for any loss or damage in connection with the Agreement except where there has been gross negligence or wilful misconduct, even if the Customer has previously advised of such loss or damage. The Bank shall not be liable under any circumstance, including gross negligence or wilful misconduct, for any indirect, consequential, special, or punitive damages caused to the Customer, even if the Customer has previously advised of such loss or damage. The Bank shall not be liable under any circumstance, including gross negligence or wilful misconduct for the failure, malfunction, delay of any system or equipment, third party, circumstances outside of the Bank's control or in connection with any action or inaction on the part of the Customer relating to their obligations under the Agreement. The Bank shall not be liable to any third party for any loss or claim arising from the breach by the Customer of this Agreement. The Bank shall not be responsible for any penalties, fees, interest, costs or damages imposed upon or suffered by the Customer with respect to any payments or for the Bank's inability to retrieve electronic payments from third party Accounts with the Bank or from other financial institutions. The Customer shall indemnify and hold harmless the Bank, its directors and officers, employees, agents and/or service providers, for any loss or damage that any one of them may incur other than directly caused by the gross negligence or wilful misconduct of the Bank.

### **9. Changing the Agreement, Our Service Charges and Our Services:**

The Bank may change (i) this Agreement; and (ii) the fees, charges, holding policies and other conditions of the Account, Electronic Banking Services or Online Banking Services. The Bank shall notify the Customer of any changes as required and permitted by law. Such changes shall be effective on the date set out in such notice. If the Customer uses the Account, Electronic Banking Services or

Online Banking Services or keeps a Card (including a renewal or replacement card) after the Bank sends or posts a notice or the Customer otherwise receives an Electronic Communication with respect to any changes the Customer shall be deemed to have accepted the changes.  
TOR01: 4689763: v14 Page 8 of 8

The Bank may, from time to time, offer the Customer additional services and products not included in this Agreement ("**Additional Services**"). The Bank shall disclose any additional terms and conditions relating to the Additional Services as required and permitted by law. If the Customer uses the Account, Electronic Banking Services or Online Banking Services in connection with the Additional Services the Customer shall be deemed to have accepted such additional terms and conditions.

#### **10. Termination of the Agreement and Services**

The Bank may close the Account, terminate the financial or other services and/or cancel any Card, PIN or Security information that are provided to the Customer in connection with the Account, Electronic Banking Services or Online Banking Services, without notice, for any reason in its sole discretion, including if the Customer breaches any provision of this Agreement or any applicable laws, or if the Bank determines, in its sole discretion, that there is any improper use of the Account, Electronic Banking Services or Online Banking Services. The Bank does not warrant or covenant that any particular service shall be available to the Customer.

If the Bank closes the Account, the Bank shall pay any balance, net of outstanding or applicable fees and charges, in the Account to the Customer by way of Instrument, delivered to the last known address for the Account. On the closing of a Joint Account, the Bank shall pay any balance, net of outstanding or applicable fees and charges, in the Account to the Customers by way of Instrument, delivered to the last known address for the Joint Account. In all cases, the Customer shall fulfill all of the Customer's obligations under this Agreement.

Subject to the right of the Bank to require reasonable notice and to any restrictions or prohibitions on withdrawal of term deposits prior to maturity, the Customer may close its Account at any time, but the closing of an Account shall not affect any transactions to the Account that arose prior to the time when the Account was closed. Unless otherwise provided in this Agreement or agreed to by the Bank, the Customer may cancel any Electronic Banking Service or Online Banking Service by notifying the Customer's branch in writing. In all cases, the Customer shall fulfill all the Customer's obligations under this Agreement. The Customer is not relieved of his/her obligations until all amounts owed to the Bank, including interest, service charges and costs, have been paid in full.

#### **11. Rights and Obligations of Successors:**

This Agreement may be assigned by the Bank without consent of the Customer. All rights of the Bank hereunder shall enure to the benefit of its successors or assigns and all obligations of the Customer shall bind the Customer's heirs, executors and administrators and their successors and assigns. This Agreement may not be assigned by the Customer.

#### **12. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the location of the branch of account and the federal laws of Canada.

#### **13. Problems or Concerns:**

The Customer may visit their local branch or office or call the Bank at 1-866-SBIC-NOW and tell the Bank about the problem or concern in the way that is most convenient for the Customer. For a more detailed overview of how to contact the Bank with regard to an individual transaction, privacy or consumer protection complaint, please obtain a copy of the SBIC Banking Guide at a branch.