



Fonthill Branch
1461 Pelham St., Box 1099
Fonthill, Ontario
L0S1E0

Oct 23, 2015

THE CORPORATION OF THE TOWN OF PELHAM
PO BOX 400
FONTHILL, Ontario
L0S1E0
CANADA

Dear Sir/Madam:

We are pleased to establish the following credit facilities. Each credit offered is referred to as a "Facility".

Overall Credit Limit

Overall Credit Limit: The total approved amount of all Facilities:
Revolving Line of Credit
Term Facility
Bridge Loan
is not at any time to exceed CDN\$6,152,728.00.

Facility A: Revolving Line of Credit

Credit Limit: \$3,000,000.00
available by way of business operating account overdraft.

Purpose: This revolving line of credit is to be used for: Day to day cash flow requirements.

Description: A revolving demand credit available by way of a centralized cash control arrangement to be used by THE CORPORATION OF THE TOWN OF PELHAM. Principal that is borrowed and repaid may be re-borrowed up to the above Credit Limit, subject to our approval.

Rate: Interest on CDN\$3,000,000.00 business operating account overdraft will be calculated at Prime Rate minus 0.250% per annum.

Repayment: On demand in accordance with the terms in Schedule A applicable to Revolving Facilities.

At any time as we may determine in our sole discretion, all outstanding amounts under this Facility may be converted to a promissory note or notes and our records will provide conclusive evidence of the amount outstanding under this Facility, including any accrued but unpaid interest, in order to determine the principal amount of any such note(s).

Conditions: See also "CONDITIONS APPLICABLE TO FACILITIES", below.

Facility B: Term Facility

Loan Amount: (rounded to the nearest dollar)	\$1,152,728.00
Purpose:	This Facility is to be used for : Purchase/repair of real estate (land &/or buildings).
Description:	A non-revolving Demand Instalment Loan. Principal that is repaid is not available to be re-borrowed.
Rate:	Interest will be calculated at the Prime Rate minus 0.100% per annum.
Last Regular Scheduled Payment Date:	The Last Regular Scheduled Payment Date will be 54 months from the date of the first regular payment date.
Repayment:	On demand. Until demand, this Facility is repayable as follows: 54 regular monthly payments of \$21,428.00 each, plus accrued interest payable monthly. The first/next regular instalment payment is due on Oct 30, 2015 and the last regular instalment payment plus any outstanding principal and interest and any other amount due but unpaid with respect to this Facility is due on the Last Regular Scheduled Payment Date. You may only prepay this Facility in accordance with Schedule A.
Fees:	The fees payable in respect of this Facility are as listed under "GENERAL FEES" at the end of this Letter.
Conditions:	See also "CONDITIONS APPLICABLE TO FACILITIES", below.

Facility C: Bridge Loan

Loan Amount: (rounded to the nearest dollar)	\$2,000,000.00
Purpose:	This Facility is to be used for : Capital infrastructure projects.
Description:	A non-revolving Demand Instalment Loan. Principal that is repaid is not available to be re-borrowed.
Rate:	Interest will be calculated at the Prime Rate minus 0.100% per annum.
Last Regular Scheduled Payment Date:	Jul 31, 2017
Repayment:	On demand. Until demand, this Facility is repayable as follows: Interest is payable monthly in arrears. You may only prepay this Facility in accordance with Schedule A.
Fees:	The fees payable in respect of this Facility are as listed under "GENERAL FEES" at the end of this Letter.
Conditions:	<ul style="list-style-type: none">• Bridge loan to be repaid in full when Debenture Funding is received from the Regional Municipality of Niagara. See also "CONDITIONS APPLICABLE TO FACILITIES", below.

CONDITIONS APPLICABLE TO FACILITIES

Facilities:	The following conditions are applicable to all Facilities:
<i>Registrations:</i>	CIBC may, if it deems necessary in its sole discretion, register a Financing Statement/Financing Change Statement under the Personal Property Security Act (or the equivalent) in the applicable jurisdiction, or file a registration under any relevant legislation and in any government office in relation to any security granted in connection with the Facilities, recording CIBC's security interest, including, without limitation, recording CIBC's security interest in any motor vehicle by registering the Vehicle Identification Number.
<i>Conditions Applicable to all Security:</i>	All security required under the Facilities generally or under a specific Facility must be in form and substance satisfactory to CIBC and unless otherwise agreed in writing, must be delivered prior to any advance under all Facilities generally or under the relevant Facility if the security is only required for that specific Facility, as applicable.

SECURITY

The following security is required in addition to any other security requirements outlined elsewhere in this letter (without duplication):

Other Security:

Borrowing By-Law : Borrowing By-Law for Bridge Loan of \$2,000,000.00.
This security is held in support of Facility(ies): C.

Other Security:

Borrowing By-Law: Borrowing By-Law for Term Loan - original amount \$3,600,000.00 dated Feb. 7, 2005.
This security is held in support of Facility(ies): B.

Other Security:

Borrowing By-Law: Borrowing By-Law for Operating Line of \$3,000,000.00 .
This security is held in support of Facility(ies): A.

REPORTING REQUIREMENTS

You will provide to us:

- (a) Audited annual financial statements within 180 days after the end of each fiscal year, on a consolidated basis.
- (b) A annual budget for your next fiscal year, including annual projected income statement within 180 days after the end of each fiscal year end, on an unconsolidated basis.

Conditions:

Any financial statements required above shall only be accepted by us if they have been signed by officers or persons duly authorized to sign the financial statements, or the financial statements must be accompanied by a certificate (as required by us) from an authorized signatory of the business certifying that the financial statements present a true and fair view of the business.

OTHER COVENANTS AND CONDITIONS

We will not be obliged to make any funds available under the Facilities until we receive (in addition to the documentation and conditions specified in this Letter and in Schedule A):

- (a) Centralized Cash Control Agreement signed by THE CORPORATION OF THE TOWN OF PELHAM.

GENERAL FEES

Other than as indicated in this Letter, there are no other general fees payable in respect of the Facilities exclusively for this Agreement only.

OTHER PROVISIONS

- Next Scheduled Review Date:** The next scheduled review is Aug 31, 2016. The terms of this Agreement will continue until amended or superseded by another agreement in writing.
- Schedule A:** The attached Schedule A, which contains certain additional provisions applicable to the Facilities, and certain definitions, forms part of this Letter.
- Repayment:** All amounts under any Facility are repayable immediately on demand by us unless otherwise indicated. We may terminate any Facility in whole or in part at any time.
- Interest Payment Dates:** Except with respect to interest on amounts in default, which is payable on demand, interest is payable as specified herein and subject to the terms and conditions in Schedule A.
- Overdrafts:** Money advanced under any Facility in excess of the Credit Limit or Loan Amount applicable to that particular Facility is repayable on demand and will bear interest at our Excess Interest Rate to the extent permitted by applicable laws and regulations.
- Authorized Debits:** Unless you have made other arrangements with us, you authorize us to debit your Operating Account for any required payments (including, without limitation, any scheduled payments), interest, fees or other amounts that are payable by you to us with respect to any Facility, as and when such amounts are payable.
- Governing Law:** The laws of the Province of Ontario and the federal laws of Canada applicable therein shall apply to this letter including Schedule A and any amendments, additions or replacements. The parties hereto submit to the exclusive jurisdiction of the courts in that Province.
- French Language:** The parties confirm their express wish that this Letter and all documents related thereto be drawn up in English. Les parties confirment leur volonté expresse de voir le présent contrat et tous les documents s'y rattachant être rédigés en anglais.
- Replacements:** This Letter supersedes and replaces all prior discussions, letters and agreements (if any) describing the terms and conditions of Facilities contained in this Letter. This Letter does not however serve to operate as a novation. To the extent necessary, CIBC reserves all of its rights in respect of any Security that has been granted to secure your obligations with respect to the Facilities.

Please indicate that you have read and accept the foregoing terms and conditions (including the terms and conditions in any Schedule attached to this letter) by signing the enclosed duplicate copy of this Letter (including obtaining written acknowledgements from any Guarantors as required by us) and returning it to the undersigned prior to Feb 29, 2016.

If (a) we have not received a duly executed copy of this Letter (including any acknowledgements from any Guarantors as required by us) by the date indicated above, and (b) you have not fulfilled all the conditions required for us to advance funds under the Facilities indicated in this Letter by Feb 29, 2016 (or any extension of this date that we may agree to), we may in our sole discretion and without notice to you, cancel all of the Facilities listed in this Letter and we will be under no further obligation to advance any funds to you under this Letter.

We would like to take this opportunity to thank you for choosing CIBC. We look forward to assisting you and your business with any future financial needs you may have.

Yours truly,
CANADIAN IMPERIAL BANK OF COMMERCE

X _____
Signature


Name: Lesley Scott
Title: Manager - Commercial
Banking
Address: 41-45 King St.,
St. Catharines, Ontario.
Phone No.: (905) 688 - 4442 Ext: 436
Fax No.: (905) 688 - 4458

Accepted this 26 day of January 2016.

THE CORPORATION OF THE TOWN OF
PELHAM

X  _____
Signature

Name: NANCY BOZZATO
Title: Town Clerk

X  _____
Signature

Name: DAVE AUGUSTYN
Title: Mayor

Attachment(s):
(1) Schedule A - Standard Credit Terms



**CIBC Retail Markets Credit Agreement
Schedule A - Standard Credit Terms**

1 INTEREST

1.1 INTEREST RATES AND CALCULATIONS: Unless otherwise specified in this Agreement:

- a) Each variable interest rate provided for in this Agreement will change automatically, without notice, whenever the Prime Rate or the US Base Rate, as the case may be, changes. Prime Rate and US Base Rate shall be determined by us and such determination shall be conclusive.
- b) Unless otherwise stated, any interest rate stated as an annual rate of interest is an interest rate for 365 days, and for the purpose of the Interest Act (Canada), shall be the stated interest rate multiplied by the actual number of days in the calendar year in which such rate is to be applied and divided by 365. For the purpose of the Interest Act (Canada) and all other purposes, the principle of deemed re-investment of interest is not applicable and the rates of interest specified in this Agreement are nominal rates and not effective rates or yields.
- c) In calculating interest for any period, the first day of such period shall be included and the last day of such period shall be excluded, and interest shall be calculated on the applicable balance at the end of each day.
- d) Interest is payable in arrears at the frequency specified in the Letter (and if not specified is payable once a month) prior to the end of the specified payment period and on the day required by us. Interest on interest, and interest on overdue amounts is also payable on demand.
- e) Interest that is charged to you and is unpaid compounds at the frequency in which interest is payable and continues to compound whether or not CIBC demands payment from you or starts a legal action, or obtains judgment against you.
- f) (i) Interest charged on a Canadian dollar Facility that is: (x) based on the Prime Rate; or (y) a Fixed Rate Loan, is calculated based on a fraction whereby the numerator is equal to the principal balance multiplied by number of days in the year in which interest is calculated multiplied by the applicable interest rate, and the denominator is equal to 365 (or 366 in a leap year for a Fixed Rate Loan or Variable Rate Loan).

(ii) Interest charged on a US dollar Facility that is: (x) based on the US Base Rate per year; or (y) a Fixed Rate Loan, is calculated based on a fraction whereby the numerator is equal to the principal balance multiplied by number of days in the payment period multiplied by the applicable interest rate, and the denominator is equal to 365 (or 366 in a leap year for a Fixed Rate Loan or Variable Rate Loan).

2 PAYMENTS AND FEES

- 2.1 **PAYMENTS:** Unless you have made other arrangements with us, you agree that CIBC shall be entitled to automatically debit your Operating Account for any payments owing (including without limitation, scheduled payments, interest and fees). If your Operating Account is in overdraft and you do not deposit to the account an amount equal to the payment being debited, the effect is that we will be charging interest on the overdue amount at the Excess Interest Rate. If any payment is due on a day other than a Business Day, then the payment is due on the next Business Day.
- 2.2 **APPLYING MONEY RECEIVED:** All payments and money we receive from you or from any Security may be applied on such parts of your liabilities to us as we may determine. This means that we may choose which Facility to apply the money against, or what mix of principal, interest, fees and overdue amounts within any Facility will be paid.
- 2.3 **RIGHT OF OFF-SET:** We may at any time off-set, or effect compensation and apply any deposits held by us and any other amounts owed by us to or for your credit against any and all of your obligations with respect to the Facilities, even though we have not made any demand and even though any such obligations may not yet be due and payable.
- 2.4 **OUR RECORDS:** Our loan accounting records will provide conclusive evidence of all terms and conditions of the Facilities such as principal loan balances, interest calculations, and payment dates. The Loan Amount on a Term Facility that is disclosed in a renewal or amending Letter is rounded to the nearest dollar and is an approximation of the principal outstanding balance. The actual outstanding principal amount is reflected in the account statement for your Term Facility provided or made available to you.
- 2.5 **FOREIGN CURRENCIES:** We may convert any amount stated in a foreign currency to an amount in Canadian

dollars according to our usual practice and at an exchange rate determined by us.

- 2.6 FEES: For any fee that is stated as a percentage, the amount charged will be based on the total authorized amount of all Facilities to which that fee applies, minus the amount of any authorized Canada Small Business Financing Act (or Small Business Loans Act) Business Improvement Loan, Farm Improvement and Marketing Cooperatives Loan, Provincial Loan Program and Provincial Guaranteed Farm Loan.

3 REPRESENTATIONS AND WARRANTIES

- 3.1 REPRESENTATIONS AND WARRANTIES: To induce us to establish and maintain the Facilities, you represent and warrant to us as follows:

- a) You have all necessary capacity, power and authority to own your property, to carry on the business carried on by you, and to enter into and perform your obligations under this Agreement and the Security.
- b) This Agreement and the Security have been duly authorized, executed and delivered, and constitute legal, valid and binding obligations and are enforceable in accordance with their terms.
- c) The execution and delivery by you of this Agreement and the Security and the performance by you of your obligations thereunder, and the obtaining by you of amounts under the Facilities, will not conflict with or result in a breach of any applicable law, and will not conflict with or result in a breach of or constitute a default under any of the provisions of your constating documents or by-laws or any agreement or restriction to which you are a party or by which you are bound.
- d) All financial statements for you that you deliver to us will present fairly your financial position in accordance with Generally Accepted Accounting Principles, as of the dates thereof and for the fiscal periods then ended.
- e) Since the date of the most recent financial statements of you delivered to us, there has occurred no event which, individually or with any other events, has had, or which may reasonably be expected to have, a Material Adverse Effect.
- f) You have not failed to observe or perform, beyond any period of grace permitted by us, any of your obligations in this Agreement.
- g) Except as disclosed in writing by you to us prior to the date of this Agreement with specific reference to this Agreement, to the best of your knowledge (i) the business carried on and the property owned or used at any time by you and your predecessors has at all times been carried on, owned or used in compliance with all environmental laws; (ii) there are no circumstances that could reasonably be expected to give rise to any civil or criminal proceedings or liability regarding the release from or presence of any hazardous substance on any lands used in or related to your business or property; (iii) there are no proceedings and there are no circumstances or material facts which could give rise to any proceeding in which it is or could be alleged that you are responsible for any domestic or foreign clean up or remediation of lands contaminated by hazardous substances or for any other remedial or corrective action under any environmental laws; and (iv) you have maintained all environmental and operating documents and records relating to your business and property in the manner and for the time periods required by any environmental laws. Except as disclosed to us in writing with reference to this Agreement, you have never conducted an environmental audit of your business or property.
- h) No representation or warranty made by you herein or in any other document furnished to us from time to time contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such statements not misleading. All projections and pro forma information delivered to us from time to time by you are and will be prepared in good faith based on assumptions believed by you to be reasonable at the time of delivery.

- 3.2 SURVIVAL: All representations and warranties contained in this Agreement shall survive the execution and delivery of this Agreement and the obtaining of amounts under the Facilities, and the obtaining of any amount under any Facility shall constitute a reaffirmation on and as of such delivery date and such borrowing date, of all representations and warranties contained in this Agreement, in each case with reference to the then-existing facts and circumstances.

4 ADDITIONAL OBLIGATIONS

- 4.1 FAILURE TO PERFORM: You will notify us promptly if you fail to perform or observe any of your obligations in

this Agreement.

- 4.2 **EXPENSES:** You will reimburse us for all reasonable fees (including legal fees) and out-of-pocket expenses incurred in (i) performing any searches (whether the Facility is secured or unsecured) or preparing or filing any registrations in relation to the approval, maintenance, review, renewal or amendment of your Facilities; (ii) preparing, registering, maintaining, renewing, reviewing, assessing, appraising or amending any Security; (iii) responding to requests from you for waivers, amendments, renewals and other matters, (iv) enforcing our rights under this Agreement or any Security; (v) discharging or replacing any Security, and (vi) having mortgaged property appraised periodically to determine its value, but not more often than once a year. Unless you have made other arrangements with us, we will automatically debit your Operating Account for any of these amounts owing to us on the date when they are payable as advised by us.
- 4.3 **FURTHER INFORMATION:** You will provide such further information about you and/or your business and your Subsidiaries as is reasonably requested by us from time to time, and such information shall be in a form acceptable to us.
- 4.4 **FURTHER ASSURANCES:** You will from time to time promptly upon request by us do and execute all such acts and documents as may be reasonably required by us to give effect to the Facilities and the Security.
- 4.5 **INSURANCE:** You will keep all your assets and property insured (to the full insurable value) against loss or damage by fire and all other risks usual for similar property and for any other risks we may reasonably require. Upon request, you will provide to us either the policies themselves or adequate evidence of their existence. If any insurance coverage for any reason stops, we may (but shall have no obligation to) insure the property. Finally, you will notify us immediately of any loss or damage to any of your property.
- 4.6 **DISPOSITIONS OF PROPERTY:** You will not sell, assign, transfer, create or cause or permit anyone else to create, a Lien (other than a Normal Course Lien), or otherwise dispose of, all or any material part of your property, except for sales in the normal course of your business for fair market value or as otherwise consented by CIBC in writing.
- 4.7 **ADDITIONAL FINANCING:** Unless otherwise agreed in the Letter, you will not obtain any additional financing or enter into any long-term leases without our prior written consent (which consent will not be unreasonably withheld).
- 4.8 **INVESTMENTS:** Unless otherwise agreed in the Letter, you will not make any Investment without our prior written consent.
- 4.9 **TRANSACTIONS WITH AFFILIATES:** Except as specifically permitted by us, you will not enter into any transaction, including the purchase, sale or exchange of any property or the rendering of any services, with any of your shareholders or Affiliates, or with any of your or their directors or officers, or enter into, assume or permit to exist any employment, consulting or similar agreement or arrangement with any such shareholder or Affiliate or with any of your or their directors or officers, except a transaction or agreement or arrangement which is in the ordinary course of your business and which is upon fair and reasonable terms not less favourable to you than it would obtain in a comparable arms-length transaction. You will ensure that your Subsidiaries (if any) comply with this section.
- 4.10 **NOTICE OF CHANGE, AMALGAMATIONS, CORPORATE RESTRUCTURING:** You will provide us with at least 30 days' prior notice (or as otherwise required by applicable law) of any name or legal status change, amalgamation, corporate restructuring or similar transaction. You must also notify CIBC immediately of any change in the ownership of or title of any Security or if any Security is substituted
- 4.11 **APPLICATION TO SUBSIDIARIES:** If requested by us, you will ensure that each of your Subsidiaries complies with this Agreement as if the references to you therein were references to each such Subsidiary.
- 4.12 **MORTGAGE SECURITY:** In the case of Facilities or a Facility that is secured by a mortgage (in Quebec, an immovable hypothec), if the property is sold, or if another charge is registered against it, we may require you to repay the full amount secured by the mortgage /immovable hypothec. If the owner of the property secured is a natural person and such person dies, you (or your executors, administrators or liquidators, as applicable) agree to notify us immediately and agree to provide us with equivalent security satisfactory to CIBC forthwith.

5 INDEMNITIES

- 5.1 **LEGAL AND REGULATORY CHANGE:** You agree to pay us the amount necessary to compensate us if, after

the date of this Agreement, our cost of offering or providing the Facilities to you is increased, or the amount that we receive under the Facilities is reduced because of a change in the law, or the introduction of a new law, or our compliance with any request or directive by any central bank, superintendent of financial institutions or other comparable authority which (i) subjects us to any tax with respect to the Facilities, (ii) changes the basis of taxation of payments to us under the Facilities (except for changes in the rate of tax on our overall net income), (iii) imposes any capital maintenance or capital adequacy requirement, reserve requirement or similar requirement with respect to the Facilities, or (iv) imposes any other condition or restriction on us. We will notify you promptly of any such event. Our certificate containing reasonable details of our calculations shall be conclusive evidence of the amount you must pay us.

- 5.2 **TAX WITHHOLDING:** You will, whenever legally permitted, pay all amounts due to us under this Agreement without any reduction or withholding on account of Taxes, other than Excluded Taxes. If you are required by law to make any such reduction or withholding, then the amount payable by you shall be increased so as to yield to us on a net basis, after payment of all Taxes and after payment of all Excluded Taxes on any additional amounts payable under this section, the rates of interest and the amounts specified in this Agreement.
- 5.3 **PAYMENT OF SALES TAX, ETC.:** You shall be liable for and shall pay to us promptly on demand, all sales taxes, and goods and services taxes, and similar taxes that are payable with respect to any goods or services we make available to you under this Agreement, or if any such tax is payable directly by you, then you shall send us, upon our request, a certified copy of an official receipt showing you have paid such tax. You shall indemnify and save us harmless from any additional taxes, interest, penalties or other liabilities that may become payable by us or to which we may be subjected as a result of any breach by you of this section. Our certificate containing reasonable details of our calculations and the amount of such taxes, interest or penalties shall be prima facie evidence of the amount you must pay us.
- 5.4 **COST OF DEFAULT:** You shall indemnify and hold us harmless from all losses and expenses which we suffer because (i) you fail to make any payment you are required to make, or to fulfil any other obligation promptly under this Agreement, (ii) you give us notice that you wish to obtain funds under a Facility and then fail to accept such funds, (iii) you give us notice that you wish to make an optional payment and then fail to make such payment, or (iv) you repay any amount on which interest is fixed until a certain date, other than on that date, or repay any other amount other than on its maturity date. Our certificate containing reasonable details of our calculations and the amount of such losses and expenses shall be prima facie evidence of the amount you must pay us.
- 5.5 **ENVIRONMENTAL MATTERS:** You shall indemnify and hold us, our directors, officers, employees and agents harmless, from all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, without limitation, the cost of any environmental assessment or other reports, or of defending any lawsuits, or of any fines, or for any preventative, remedial, or clean-up activity, or to compensate for any loss or damage to any property or person) arising from any failure by you to carry on your business, and maintain your assets and property in accordance with all applicable environmental laws and regulations, or arising from any release, deposit, discharge or disposal of pollutants of any sort in connection with either your business or property. If we ask, you will defend any lawsuits, investigations or prosecutions brought against us or any of our directors, officers, employees and agents in connection with any failure by you to carry on your business, and maintain your assets and property in accordance with all applicable environmental laws and regulations, or arising from any release, deposit, discharge or disposal of pollutants of any sort in connection with either your business or property. Your obligation under this section continues even after the Facilities have been repaid or cancelled or this Agreement has terminated.
- 5.6 **INDEMNITY:** You hereby indemnify and agree to hold CIBC harmless from all losses, damages, costs, demands, claims, expenses (including out-of-pocket expenses) and other consequences which CIBC may incur, sustain or suffer, other than pursuant to its own negligence or wilful misconduct, in relation to any of your Facilities or any Security, or enforcing or protecting the provisions thereof, including, without limitation, legal and other professional expenses reasonably incurred by CIBC and whether incurred in defending any action brought against CIBC, or in any proceedings brought by CIBC against you, any guarantor of your liabilities to CIBC hereunder or with respect to your or any guarantor's property charged or pledged to CIBC for the purpose of protecting, taking possession thereof, holding or realizing thereon, or otherwise in connection herewith.

6 GENERAL

- 6.1 **CALCULATIONS RELATING TO FINANCIAL COVENANTS:** All calculations relating to financial covenants may be done, at our option on a consolidated basis, as indicated in the Letter, and each amount derived from your profit and loss statement shall be calculated as the total of such amount during your four most recently-completed fiscal quarters (or, if agreed upon by us in our sole discretion, during your most

recently-completed fiscal year), as shown in your most recent financial statements delivered to us.

- 6.2 **REPORTING REQUIREMENTS:** We may, at our option and as indicated in the Letter, require certain reports to be delivered on a consolidated or unconsolidated basis.
- 6.3 **OUR PRICING POLICY:** The fees, interest rates and other charges for your banking arrangements with us are dependent upon each other. Accordingly, if you cancel or do not follow through with, in the manner originally contemplated, any of these arrangements, we reserve the right to require payment by you of increased or added fees, interest rates and charges as a condition of the continuation of your banking arrangements.
- 6.4 **OUR RIGHTS RE: DEMAND FACILITIES:** We may, at our discretion, demand immediate repayment of any outstanding amount under any demand Facility. We may also, at any time, and for any reason, cancel the unused portion of any demand Facility.
- 6.5 **PRE-CONDITIONS:** You may use the Facilities granted to you in the Letter only if:
- a) We have received properly signed copies of all documentation that we may require in connection with the Facilities, the operation of your accounts and your ability to borrow and give us the Security we require;
 - b) All the required Security has been received and, if we require it, registered to our satisfaction;
 - c) Any special provisions or conditions set forth in the Letter have been complied with; and
 - d) If applicable, you have given us the required number of days notice for drawing under a Facility.
- 6.6 **STANDARD ARM'S LENGTH WAIVER:** In the event that any funds borrowed under a Facility will be used for the purpose of purchasing stocks, bonds, mutual fund units or shares or other securities (the "Securities") from a CIBC subsidiary (the "Company") which may be held in a hypothecated account, or to open an investment account with a Company for purposes of purchasing Securities (an "Account"), you acknowledge that:
- a) You have discussed the purchase of such Securities or the opening of the Account with a representative of the Company.
 - b) The Letter (including any Facility used for the purposes outlined in this section) is an entirely separate transaction from the purchase of such Securities or the opening of an Account with the Company, and the obligations to CIBC with respect to the Facility will not in any way be affected by any advice that may have been given or representations that may have been made by the Company representative with respect to the Securities or the advisability of purchasing them or opening an Account or by any dispute that may arise in relation to the Securities or the Account, or with the Company or any investment manager of the Company, or obligation in relation to the Securities or the Account or any obligation of the Company or the investment manager of the Company.
 - c) Even though the Company may be a subsidiary of CIBC, there is no obligation to obtain credit under a Facility from CIBC in connection with the purchase of Securities or opening an Account with the Company. CIBC's decision to provide credit under a Facility will be based solely on CIBC's lending and security requirements.
- 6.7 **NOTICE OF DEFAULT:** You will promptly notify us of the occurrence of any event that is an Event of Default (or any that would be an Event of Default if the only thing required is either notice being given or time elapsing, or both).
- 6.8 **MISCELLANEOUS:** You allow us to provide particulars of any of the Facilities where we determine it is necessary for purposes of approving, setting up, maintaining, renewing, amending, restating, replacing or discharging any Facility or any Security, and you allow us to give a copy of this Agreement and any Security granted by you or any other person to CIBC, to each existing guarantor (as well as to any future guarantors) and any signing officer of the business that we have on file as an authorized signing officer, each as we may determine necessary, together with copies of all renewals, replacements, restatements, supplements or amendments to this Agreement or any Security.
- 6.9 **CONFIDENTIALITY:** The terms of this Agreement are confidential between you and us, and accordingly you will not disclose the contents of this Agreement to anyone except your professional advisors or except as may be required by law.
- 6.10 **ASSIGNMENT/PARTICIPATION AND CONSENT TO INFORMATION RELEASE:** You acknowledge that we may assign, or offer a participation in, the Facilities, or your liabilities thereunder, to an assignee

CIBC Retail Markets Credit Agreement
Schedule A - Standard Credit Terms

or participating third party, other entity, CIBC subsidiary or CIBC business unit (the "beneficial owner"), whether or not such beneficial owner is named in this Agreement or any other document referencing such Facilities. You agree that we may disclose any information relating to such Facilities (including any personal guarantee) to such beneficial owner (including, without limitation, any personal information), or its agents, any assignee of such beneficial owner, and any Service Provider (as defined below). Personal information includes all information provided by a principal of the business or a guarantor of your debt or other information obtained by us in connection with your credit application and/or the credit agreement, and any ongoing information and documentation about you, any guarantor of your debt, or your Facilities, to the extent required by the beneficial owner, its agent or assignee, or any service provider, to enable such person to administer the Facilities and exercise its rights thereunder. "Service Provider" means a person or entity that has been engaged in connection with the servicing, maintenance, collection or operation of your Facilities or the provision of services or benefits to you and/or any guarantor of your debt (including loyalty programs). You may not transfer or assign this Agreement or any Facility without CIBC's express written consent.

- 6.11 **WAIVER:** No delay on our part in exercising any right or privilege will operate as a waiver thereof, and no waiver of any failure or default will operate as a waiver thereof unless made in writing and signed by an authorized officer of us, or will be applicable to any other failure or default.
- 6.12 **COUNTERPARTS:** This Agreement may be executed in one or more counterparts, which together shall constitute one agreement.
- 6.13 **NOTICE:** Any communication or notice to be given with respect to the Facilities may be effectively given by delivering the same at the addresses set out herein (or as set out in any Guarantee or other documentation provided to CIBC in relation to the Facilities), or by sending the same by facsimile, or by regular or prepaid registered mail to the parties at such addresses. Any notice so mailed will be deemed to have been received on the fifth (5th) day next following the mailing thereof, provided that postal service is in normal operation during such time. Any facsimile notice will be deemed to have been received on transmission if sent on a Business Day and, if not, on the next Business Day following transmission. Any notice delivered by hand (including without limitation, by courier) will be deemed received on the date of delivery. Either party may from time to time notify the other party, in accordance with this section, of any change of its address which thereafter will be the address of such party for all purposes of the Facilities. It is your responsibility to notify CIBC of any change to your address and the address of any Guarantor. If CIBC is not advised of such change of address, the last known address we have will be deemed to be the current address for purposes of notice and service hereunder.
- 6.14 **LIMITATION PERIOD:** To the extent permitted by law, a party to this Agreement (the "Claiming Party") may bring an action in respect of any loss or damage that occurs as a result of an act or omission on the part of another party (the "Defaulting Party") within six (6) years from the date (i) the Claiming Party first knew the loss or damage occurred and was contributed to by an act or omission of the Defaulting Party, or (ii) on which a reasonable person with the abilities and circumstances of the Claiming Party ought to have known of the matters referred to in (i) above. This provision does not apply to Agreements that are governed by the laws of the Province of Quebec.

7 REVOLVING FACILITIES

A revolving Facility (including a Revolving Term Facility unless otherwise indicated) may also be referred to in this Agreement as a Line of Credit. Unless otherwise stated in the Letter, the following terms apply to each Facility that is described in the Letter as a revolving Facility (including a Revolving Term Facility unless otherwise indicated).

- 7.1 **CHANGES:** The Facility offered, the Credit Limit, the interest rate, interest rate spread, minimum payments required and other terms of the Facility and the Agreement may be changed at our sole discretion and without prior notice (unless otherwise required). Such changes will take effect immediately or, in the event that we are required to provide you with prior notice under an applicable statute, regulation or otherwise, will take effect on the date indicated in such notice. These changes may apply to all amounts owing on or arising after the date that you receive notice of the change. If agreement to such change is required by applicable law, regulation or otherwise, if you continue to use the Facility after the date on which such changes will take effect (as may be indicated in any notice we send to you), you will be deemed to have agreed to any such change.
- 7.2 We may, without notice to you, return any debit from your Operating Account to which your Line of Credit is attached that, if paid, would result in the Credit Limit for that particular Facility being exceeded, unless you have made prior arrangements acceptable to CIBC. If we pay any of these debits, you must repay us immediately the amount by which the Credit Limit for that particular Facility is exceeded.

- 7.3 CREDIT LIMIT: If you exceed your Credit Limit on any Facility, we may not advance money, even if we have done so in the past. In cases where we do advance money when you have exceeded your Credit Limit on any Facility, you agree to repay the excess amount immediately.
- 7.4 CIRCULAR PAYMENTS: You agree not to use each revolving Facility to move debt from one Facility to another. If nevertheless you use a revolving Facility to make a payment on another Facility, then you must deposit, to the Operating Account to which the revolving Facility is attached, from other sources, in addition to any other amount you are required to deposit, the amount of such payment.
- 7.5 MARGINS: If any of your revolving Facilities are margined, the available Credit Limit of that Facility is the lesser of the Credit Limit stated in the Letter for that particular Facility and the amount calculated using the Monthly Statement of Available Credit Limit (or any other report which CIBC requires for this purpose), as (a) the Market Value of such assets against which the Credit Limit is margined, or (b) otherwise required under "Reporting Requirements" in the Letter, each as applicable for that particular margined Facility.

8 NON-REVOLVING FACILITIES

A non-revolving Facility may also be referred to as a Term Facility. Unless otherwise stated in this Agreement, the following terms apply to each Facility that is described in this Agreement as a non-revolving Facility. The terms of this section shall also apply to all Revolving Term Facilities unless otherwise indicated.

- 8.1 CHANGES: CIBC may at any time change the interest rate, interest rate spread, term, other terms of a Loan, and the type of repayment we require, including, without limitation, changing a blended payment Loan to payments of principal plus interest, or to any other type of Loan. We may also change the amortization period on a Loan, the amount of the regular instalment payments to be made and/or the frequency of the instalment payments, each without advanced notice (unless required by an applicable law, regulation or otherwise) and such changes will become effective immediately (unless we are required to give prior notice by applicable law, regulation or otherwise, in which case the change will take effect on the date indicated in the notice). If we make any such changes, we will notify you.
- 8.2 RENEWAL AGREEMENT: If your Term Facility is not paid in full by the last regular payment date indicated in the Letter, we may offer to amend the terms and conditions of such Facility by sending you a renewal agreement which will extend the term of the Facility, and which may change, among other things, your interest rate, your regular payment amount, payment frequency, the amortization period and the type of payments required (blended, interest only or principal plus interest). Accrued interest to the renewal date may be added to your outstanding Loan amount. Unless otherwise stated in the renewal agreement, all other terms and conditions of your Term Facility will remain the same. If you do not pay the balance owing on your Facility at the end of the term, you will be conclusively deemed to have accepted our offer on the terms and conditions set out in the renewal agreement. If you do not accept our offer, you will be required to immediately repay all amounts owing including outstanding principal, interest and other applicable charges.
- 8.3 PAYMENTS: Any payment we receive that is applied to a non-revolving Facility is applied first to overdue interest, then to current interest owing, then to overdue principal, then to any fees and charges owing, and finally to current principal.
- 8.4 INTEREST ON FIXED RATE LOANS: The interest rate specified in this Agreement for each Fixed Rate Loan that you have not yet drawn will be fixed on the date of advance of the Loan. We will notify you of the actual interest rate on the date of advance. The interest rate quoted in this Agreement is used for reference purposes only, being the rate that would have been applicable if the Loan had been advanced on the date of this Agreement.
- 8.5 PREPAYMENT: The following terms apply to any Term Facility, except Farm Mortgage Loans or Revolving Term Facilities:
- a) If you are repaying a Variable Rate Loan in instalments of principal plus interest, and you are not in default, you may prepay all or part of the Term Facility at any time without notice or penalty.
 - b) Subject to paragraph (c) below, you may prepay all or part of a Fixed Rate Loan on the following condition. You must pay us, on the prepayment date, a prepayment fee equal to the greater of (i) three months' interest on the Loan calculated at your existing annual interest rate on the date of prepayment (plus any discount you received on your existing annual interest rate), on the amount prepaid, and (ii) the Interest Rate Differential for the remainder of the term of the Loan, determined in accordance with the standard formula used by CIBC in these

situations. For prepayment fee calculations, see the "Interest Rate Differential Calculation below.

c) If (a) you are a corporation, (b) the Fixed Rate Loan being prepaid is secured by a mortgage or hypothec on immovables, and (c) the initial term or any renewal term of the Fixed Rate Loan is more than five years, you may prepay all or part of the Fixed Rate Loan at any time after the date that is five years from the date the Fixed Rate Loan was advanced to you or the most recent date as of which the Fixed Rate Loan has been renewed for a new term, as the case may be, in addition to principal and interest to the date of such prepayment and instead of notice, three months' further interest calculated at your existing annual interest rate on the date of prepayment (plus any discount you received on your existing annual interest rate) on the principal amount prepaid.

d) We will apply the prepayment against instalments in reverse order of due date.

e) The prepayment fee required by paragraph (b) above is not applicable to any Fixed Rate Loans in an original principal amount of less than \$100,000 granted to a sole proprietor or individual unless it is secured by a collateral mortgage or hypothec on immovables.

- 8.6 REPAYMENT OF COMMITTED INSTALMENT LOANS: Each non-revolving Facility that is a Committed Instalment Loan is payable in regular instalments as indicated in the Letter, but is repayable in full upon the occurrence of an Event of Default.
- 8.7 REPAYMENT OF DEMAND INSTALMENT LOANS: Each non-revolving Facility that is a Demand Instalment Loan is repayable in full upon demand by CIBC notwithstanding that certain Facilities in the Letter indicate that regular instalments (or interest only) are payable and refers to a Last Regular Scheduled Payment Date.
- 8.8 COLLATERAL MORTGAGE AND PREPAYMENT: If the Fixed Rate Loan is secured by a mortgage or hypothec on immovable, the applicable document is amended by deletion of all terms (if any) that relate to prepayment of the Fixed Rate Loan. The only prepayment terms that apply to the Fixed Rate Loan are the ones set forth in this Agreement.
- 8.9 INTEREST RATE DIFFERENTIAL CALCULATION: For the purpose of calculating prepayment fees noted above, "Interest Rate Differential for the remainder of the term" means:
- a) in the case of a Farm Mortgage Loan, the difference between the cost of funds to CIBC for the relevant term on the date the Farm Mortgage Loan was advanced and the cost of funds to CIBC to reinvest in a Farm Mortgage Loan for a term equal to the closest lower annual term of the remaining period of the Farm Mortgage Loan on the date the prepayment is calculated (as indicated in the Fixed Rate Farm Mortgage Loan Reinvestment Table below) multiplied by the amount of the Loan being prepaid, (assuming that interest was payable monthly on the Farm Mortgage Loan) multiplied by the remaining period of the Farm Mortgage Loan in months, divided by 12; and
- b) in the case of a Fixed Rate Fixed Term Loan, the difference between the net present value of the Fixed Rate Fixed Term Loan and the amount being prepaid. For purposes of calculating the Interest Rate Differential for the remainder of the term for Fixed Rate Fixed Term Loans, the calculation of "net present value of the Fixed Rate Fixed Term Loan" is based on a formula (determined by CIBC in accordance with its usual banking practice) that takes into account (i) CIBC's cost of funds for the Fixed Rate Fixed Term Loan at the time the Loan was made, (ii) the number of interest periods (i.e. weekly, monthly, quarterly, etc.) remaining in the term of the Fixed Rate Fixed Term Loan (calculated from the beginning of the last interest period that falls on or before the date of prepayment), (iii) the amount of principal and interest that would have been payable for each regularly scheduled payment period (i.e. weekly, monthly, quarterly etc.) and/or interest period, as the case may be, had the Fixed Rate Fixed Term Loan not been prepaid, (iv) the remaining amortization period of the Fixed Rate Fixed Term Loan, and (v) CIBC's cost of funds to provide a new Fixed Rate Fixed Term Loan on the date of prepayment for a term closest to the remaining period of the Fixed Rate Fixed Term Loan for which CIBC has posted interest rates (as indicated in the Fixed Rate Fixed Term Loan Reinvestment Table below).

The following table indicates the term that CIBC will use to calculate the Interest Rate Differential for the remainder of the term by setting out the period that CIBC will use as the remaining term to reinvest in a Fixed Rate Farm Mortgage Loan or Fixed Rate Loan for a fixed term, as the case may be. Column A lists the remaining period in the term of the Fixed Rate Farm Mortgage Loan or Fixed Rate Fixed Term Loan, and Column B lists the term used to determine the cost of funds to CIBC to reinvest in the same type of Loan on the prepayment date:

Fixed Rate Farm Mortgage Loan Reinvestment Table	
Column A	Column B
Less than or equal to 3 months	Monthly basis
Greater than 3 months and less than or equal to 23 months	1 year
Greater than 23 months and less than or equal to 35 months	2 years
Greater than 35 months and less than or equal to 47 months	3 years
Greater than 47 months and less than or equal to 59 months	4 years
Greater than 59 months and less than or equal to 83 months	5 years
Greater than 83 months and less than or equal to 119 months	7 years
120 months or greater	10 years

Fixed Rate Fixed Term Loan Reinvestment Table	
Column A	Column B
Less than or equal to 3 months	Monthly basis
Greater than 3 months and less than or equal to 17 months	1 year
Greater than 17 months and less than or equal to 29 months	2 years
Greater than 29 months and less than or equal to 41 months	3 years
Greater than 41 months and less than or equal to 53 months	4 years
Greater than 53 months and less than or equal to 77 months	5 years
Greater than 77 months and less than or equal to 101 months	7 years

For sample calculations, or to find out the amount of the Interest Rate Differential for the remainder of the term on your Fixed Term Fixed Rate Loan, please contact CIBC.

9 DEFINITIONS

9.1 In this Agreement "you" and "your" refer to the customer in whose favour, subject to the terms of this Agreement, the Facilities are established (and for greater certainty, if the customer is a business, such terms refer to the business and not a key principal, principal, guarantor or signing officer of the business), and "CIBC", "we", "us" and "our" refer to Canadian Imperial Bank of Commerce.

9.2 Unless otherwise stated in this Agreement:

"Affiliate" means any other person or entity that directly or indirectly controls, is controlled by, or is under direct or indirect common control with you and includes any person or entity in like relation to an Affiliate. One person or entity shall be deemed to control another person or entity if the first person or entity possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person or entity, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means the Letter, including this Schedule and any other Schedules to the Letter, as amended, renewed, replaced or supplemented from time to time.

"Amendment Fee" means the fee charged for each amendment request by you. The amendment fee compensates us for the due diligence, analysis and administration necessary to amend your Facility(ies).

"Annual Review Fee" means the fee charged when you are renewing an existing Facility(ies). The annual review fee compensates us for the due diligence and financial statement analysis necessary to renew your Facility(ies).

"Business Day" means any day excluding Saturday, Sunday and excluding any day which is a legal holiday in the province or territory where you have your Operating Account.

"Capital Expenditures" means the outlay of money to acquire or improve capital assets such as buildings,

machinery, vehicles, etc.

"Cash Flow" means the EBITDA, less unfunded Capital Expenditures and Debt Service.

"CIBC Base Rate" means the current posted interest rate per year which varies by term as declared by CIBC for CIBC brand closed fixed rate fixed term loans in Canada.

"CIBC Residential Mortgage Rate" means the current posted interest rate per year which varies by term as declared by CIBC Mortgages Inc. for CIBC brand closed fixed rate residential Canadian dollar mortgage loans in Canada.

"Committed Instalment Loan" means a loan that is payable in regular instalments and is repayable in full upon the occurrence of an Event of Default. Such Committed Instalment Loan may be either a Fixed Rate Loan or a Variable Rate Loan

"cost of funds to CIBC" or "CIBC's cost of funds" for purposes of calculating the Interest Rate Differential for the remainder of the term is the "Transfer Price Rate" as determined by CIBC's Treasury Balance Sheet and Risk Management area based on Canadian cash and swap markets for the date on which cost of funds is being determined.

"Credit Limit" means, in respect of any Facility, the credit limit indicated in the Letter.

"Creditor Insurance" means the type of insurance whereby the insurer agrees to pay off the insured outstanding Facility balances or debts of individuals in the event of death.

"Current Assets" means cash, accounts receivable, inventory and other assets that are likely to be converted into cash, sold, exchanged or expended in the normal course of business within one year or less, excluding amounts due from related parties.

"Current Liabilities" means debts that are or will become payable within one year or one operating cycle, whichever is longer, and which will require Current Assets to pay. They usually include accounts payable, accrued expenses, deferred revenue, operating loans and the current portion of long-term debt.

"Current Ratio" means the result of Current Assets divided by Current Liabilities.

"Debt" includes (i) an obligation for borrowed money, (ii) an obligation evidenced by a note, bond, debenture or other similar instrument, (iii) an obligation for the deferred purchase price of property or services, (iv) a capitalized lease obligation, (v) a guarantee, indemnity or financial support obligation, determined in accordance with GAAP, (vi) an obligation (of you or any other person or entity) secured by a Lien on any of your property, even though you have not otherwise assumed or become liable for the payment of such obligation, (vii) an obligation arising in connection with an acceptance facility or letter of credit issued for your account, and (viii) a capital share that is redeemable by you either at a fixed time or on demand by the holder of such share, valued at the maximum purchase price at which you may be required to redeem, repurchase or otherwise acquire such share.

"Debt Service" means EBITDA minus the current portion of long-term debt and interest expense.

"Debt Service Ratio" means the ratio of X to Y, where X is (i) EBITDA, in the case of a corporation; or (ii) EBITDA less partners' draws in the case of a partnership; or (iii) EBIDA less proprietor's draws, in the case of a sole proprietorship; and Y is the current portion of long term debt, plus interest expense

"Debt to Effective Equity Ratio" means the ratio of X to Y, where X is Debt, less all Postponed Debt, and Y is the total of Shareholders' Equity, plus all Postponed Debt, less: (i) amounts due from/investments in related parties and (ii) Intangibles, if Customer is a corporation.

"Demand Instalment Loan" means a loan that is repayable in regular instalments (or interest only) as indicated in the Letter and is repayable in full upon demand, even if certain Facilities in the Letter indicate that regular instalments (or interest only) are payable and there is reference to a Last Regular Scheduled Payment Date. Such Demand Instalment Loan may be either a Fixed Rate Loan or a Variable Rate Loan.

"Dividends" means payments to shareholders reflected as a charge against retained earnings. Dividends may be paid on both preferred and common shares. Dividends must be approved by the company's board of directors, and may only be declared if the company meets specified financial tests.

"EBIT" means earnings before interest and income taxes.

"EBITDA" means earnings before income taxes, plus interest and depreciation/amortization.

"EDC Receivable Value" means at any time, the value of your EDC Receivables. For purposes of this valuation we exclude any receivable (i) that is not subject to the Security, (ii) that is subject to any Lien not specifically permitted by us, (iii) that does not satisfy EDC's eligibility criteria for accounts receivable insurance, (iv) that is subject to any offset or counterclaim or compensation by the applicable account debtor, (v) that is payable in a currency that is not acceptable to us, (vi) that is owed by an Affiliate or any employee, agent or representative of you or an Affiliate, or (vii) that is otherwise excluded by us in our reasonable discretion.

"EDC Receivables" means your receivables that are insured by accounts receivable insurance of Export Development Canada in good standing which has been assigned to CIBC in form acceptable to us.

"Effective Equity" means Shareholders' Equity, plus all Postponed Debt less (i) amounts due from/investments in related parties and (ii) Intangibles.

"Event of Default" means, in connection with any Committed Instalment Loan (even if that Committed Instalment Loan has not yet been drawn), the occurrence of any of the following events (or the occurrence of any other event of default described in this Agreement, in any of the Security or in any other agreement or document you have signed with us):

- a) You do not pay, when due, any amount that you are required to pay us under this Agreement or otherwise, or you do not perform any of your other obligations to us under this Agreement or otherwise.
- b) Any part of the Security terminates or is no longer in effect, without our prior written consent.
- c) You cease to carry on your business in the normal course, or it reasonably appears to us that that may happen.
- d) A representation that you have made (or deemed to have made) in this Agreement or in any Security is incorrect or misleading in any material respect.
- e) If you are a corporation, there is, in our reasonable opinion, a change in effective control of the corporation, or if you are a partnership, there is a change in the partnership membership.
- f) We believe, in good faith and upon commercially reasonable grounds, that all or part of the property subject to any of the Security is or is about to be placed in jeopardy or that an event has occurred that has a Material Adverse Effect.
- g) The holder of a Lien takes possession of all or part of your property; or a distress, execution or other similar process is levied against any such property.
- h) You:
 - (i) become insolvent;
 - (ii) are unable generally to pay your debts as they become due;
 - (iii) make a proposal in bankruptcy, or file a notice of intention to make such a proposal;
 - (iv) make an assignment in bankruptcy;
 - (v) bring a court action to have yourself declared insolvent or bankrupt; or someone else brings an action for such a declaration; or
 - (vi) you default in payment or breach any other obligation to any of your other creditors.
- i) If you are a corporation:
 - (i) you are dissolved;
 - (ii) your shareholders or members pass a resolution for your winding-up or liquidation;

(iii) someone goes to court seeking your winding-up or liquidation, or the appointment of an administrator, conservator, receiver, trustee, custodian or other similar official for you or for all or substantially all your assets; or

(iv) you seek protection under any statute offering relief against the company's creditors.

If there is more than one borrower and forfeiture of the term is incurred by any one borrower, then it also means there is forfeiture of the term for all other borrowers.

"Excess Interest Rate", means the variable reference interest rate per year declared by CIBC from time to time to be its interest rate on accounts that exceed their authorized Credit Limit, which is currently an annual rate of 21%.

"Excluded Taxes" means Taxes imposed on CIBC's overall net income or franchise taxes, taxes on doing business or taxes measured by our capital or net worth.

"Fixed Charge Coverage Ratio" means the ratio of X to Y, where X is EBITDA, less the sum of cash taxes, Dividends and net shareholder and related party disbursements, and Y is principal and interest payments.

"Fixed Rate Loan" means a non-revolving Facility on which interest is calculated at a fixed rate of interest.

"Funded Debt" means the aggregate of all obligations or borrowings bearing interest. This may include all obligations for the deferred payment of the purchase of property, all capital lease obligations, all indebtedness secured by purchase money security interests and the amount of any contingent liabilities such as guarantees or other financial assistance provided in respect of the liabilities of a third party. This usually excludes Postponed Debt if it is from a primary shareholder.

"Funded Debt to EBITDA Ratio" means the ratio of X to Y, where X is the total Funded Debt and Y is EBITDA.

"Funded Debt to Total Capital Ratio" means the ratio of X to Y, where X is the total of Funded Debt, and Y is the Total Capital.

"GAAP" or "Generally Accepted Accounting Principles" means those accounting principles which are recognized as being generally accepted in Canada and which are in effect from time to time as set out in the handbook published by the Canadian Institute of Chartered Accountants. If you have, or the party to which references to GAAP are intended to apply has, adopted International Financial Reporting Standards ("IFRS"), then the applicable references in this Agreement to GAAP or Generally Accepted Accounting Principles may be interpreted to mean IFRS, but only if CIBC has consented to such change.

"Hypothecated Account" includes a mutual fund account, a CIBC Private Investment Counsel Inc. (formerly TAL Private Management) PFA (Pooled Fund) account, a CIBC Trust account, a CIBC Private Investment Counsel Inc. (formerly TAL Management) Custodial account or a Personal Portfolio Services account held at CIBC Trust Inc., or any other account in which Liquid Securities are maintained.

"Interest Coverage Ratio" means the ratio of X to Y, where X is EBIT and Y is interest expense.

"Intangibles" means assets of the business that have no value in themselves but represent value in the context of the business operation, including, without limitation, such personal property as goodwill; copyrights, patents and trademarks; franchises; licences; leases; research and development costs; capitalized advertising costs; organization costs; exploration permits; and deferred development costs.

"Inventory Value" means, at any time, the value of your inventory, determined at the lower of cost and market on a first-in, first-out basis. For purposes of this valuation we exclude any inventory (i) that is work-in-progress, (ii) that is not located in Canada, (iii) that is not subject to the applicable duly perfected Liens created by the Security, (iv) that is subject to any Lien not specifically permitted by us, (v) that may be seized by your landlord, (vi) that is obsolete or not readily saleable in the ordinary course of business, (vii) that has not been paid for in full and is subject to a right of repossession; or (viii) that is otherwise excluded by us in our reasonable discretion. For any margined agricultural Facilities, see also the definition of "Inventory Value" applicable to such Facilities below under "Agricultural Facilities".

"Investment" means any direct or indirect investment in or purchase or other acquisition of the securities of or any equity interest in any person or entity, any loan or advance to, or arrangement for the purpose of providing

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funds or credit to (excluding extensions of trade credit in the ordinary course of business in accordance with customary commercial terms), or capital contribution to, any person or entity, or any purchase or other acquisition of all or substantially all of the property of any person or entity.

"Letter" means the letter agreement between you and CIBC to which this Schedule and any other Schedules are attached, as the same may be amended, restated, supplemented, renewed or replaced from time to time.

"Lien" includes without limitation a mortgage, charge, lien, hypothec, prior claim, security interest or encumbrance of any sort on any property or asset, and includes conditional sales contracts, title retention agreements, capital trusts and capital leases.

"Liquid Security" is as defined in the Letter.

"Loan" means a term loan under a Facility.

"Loan Administration Fee" means the monthly fee charged for monitoring and administering any Facility that is a revolving Facility (other than a Revolving Term Facility).

"Market Value" means with respect to any Liquid Security, the value at which such security may be sold in the market by CIBC or its nominee or agent on the date upon which such sale or potential sale is to be made, as determined by CIBC.

"Material Adverse Effect" means a material adverse effect on your business, property, condition (financial or otherwise) or prospects considered as a whole, or a material adverse effect on your ability to perform your obligations under any of this Agreement and the Security.

"Minimum Effective Equity" means the dollar amount below which Effective Equity is not to reduce.

"Normal Course Lien" means a Lien that (a) arises by operation of law or in the ordinary course of business as a result of owning any such asset (but does not include a Lien given to another creditor to secure debts owed to that creditor) and (b), taken together with all other Normal Course Liens, does not materially affect the value of the asset or its use in the business.

"Operating Account" means your Canadian dollar or US dollar business operating account(s) with us selected by us from time to time.

"Other Fees" or "Fees" means any other fees charged for your Facility(ies), which could relate to the type of instrument used in connection with a Facility, the discharge of Security, site inspection fees, environmental reports prepared by us or completed by an environmental engineering company, fees required to be paid for government sponsored programs, etc. The specific reason and amount of the fee is detailed in the Letter or as advised by us.

"Postponed Debt" means Debt (i) where priority of both repayment and security is formally postponed by the holder of such Debt in our favour by a written postponement satisfactory to us, (ii) incurred without breaching any obligation to us and at a time when you are not in default of any obligation to us, (iii) no principal of which is repayable so long as any amount is owed by you to us (or until such earlier date as we may agree in writing), (iv) which is not secured by any covenant that is more onerous than or in excess of the covenants in our favour in this Agreement.

"Prime Rate" means a fluctuating annual interest rate equal at all times to the reference rate of interest (however designated) by CIBC for determining interest chargeable by us on loans in Canadian dollars made in Canada.

"Prior Ranking Claims" means, at any time, any of your liabilities that ranks, in right of payment in any circumstances, equal to or in priority to any of your liabilities to us. Examples are unpaid wages, salaries and commissions, unremitted source deductions for vacation pay, arrears of rent, unpaid taxes, amounts owed in respect of worker's compensation, amounts owed to unpaid vendors who have a right of repossession, and amounts owing to creditors which may claim priority by statute or under a Purchase Money Lien.

"Purchase Money Lien" means any Lien which secures a Purchase Money Obligation permitted by this Agreement, provided that such Lien is created not later than 30 days after such Purchase Money Obligation is incurred and does not affect any asset other than the asset financed by such Purchase Money Obligation.

"Purchase Money Obligation" means any Debt (including without limitation a capitalized lease obligation)

incurred or assumed to finance all or any part of the acquisition price (and not exceeding the fair market value) of any asset acquired by you.

"Receivable Value" means, at any time, the value of your receivables. For purposes of this valuation we exclude any receivable (i) that is not subject to the Security, (ii) that is subject to any Lien not specifically permitted by us, (iii) that has been outstanding for a period greater than that indicated in the Letter in the margin section of the applicable Facility, (iv) that is subject to any offset or counterclaim or compensation, (v) that is owed by any person or entity whose principal place of business is located outside Canada or the United States of America, (vi) that is payable in a currency that is not acceptable to us, (vii) that is owed by an Affiliate or any employee, agent or representative of you or an Affiliate, (viii) with respect to which a cheque, note, draft or other payment instrument has not been honoured in accordance with its terms, (ix) that is owed by any person or entity that is insolvent or is otherwise doubtful of collection in our reasonable opinion, or (x) that is otherwise excluded by us in our reasonable discretion.

"Revolving Term Facility" means a Revolving Term Facility indicated in the Letter, and includes a Revolving Farm Term Facility.

"Security" means any security (including, without limitation, any guarantee) held by us for your indebtedness, obligations and liabilities to us, whether granted in respect of a particular Facility or all Facilities.

"Shareholders' Equity" means the total shareholders' equity (or, as the case may be, partners' capital or proprietor's capital) that would be shown on your balance sheet prepared in accordance with GAAP but excluding (i) any accounts owed to you by an Affiliate or any shareholder, director, officer, employee, agent or representative of you or an Affiliate, and (ii) any intangibles such as, without limitation, goodwill, copyrights, patents, trademarks, franchises, licences, leases, research and development costs, and deferred development costs.

"Standby Fee" means the fee that applies to the unused portion of any Facility that is a revolving Facility (other than a Revolving Term Facility). For example, if the total approved amount of a revolving Facility is \$100,000 and the unused portion over the month is \$60,000, then \$60,000 is multiplied by the Standby Fee percentage (%) and divided by twelve to determine the Standby Fee payable per month.

"Structuring Fee" means the fee charged when you are requesting a new Facility. The structuring fee provides compensation for the time spent by CIBC to process your Facility application.

"Subsidiary" means any person or entity of which you, directly or indirectly, beneficially own or control, shares or other equity units having ordinary voting power to elect a majority of the board of directors or other individuals performing comparable functions, or which are entitled to or represent more than 50% of the owners' equity or capital or entitlement to profits, and shall include any other person or entity in like relationship to a Subsidiary of you.

"Taxes" means all income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings now or hereafter imposed, levied, collected, withheld or assessed and includes sales taxes, value added taxes and goods and services taxes.

"Total Capital" means Shareholders' Equity.

"US Base Rate" means a fluctuating annual interest rate equal at all times to the reference rate of interest (however designated) by CIBC for determining interest chargeable by CIBC on loans in US dollars made in Canada.

"Variable Rate Loan" means a non-revolving Facility on which interest is calculated at a fluctuating rate of interest.

"Withdrawals" means money paid to the owners of the Company beyond normal salaries or transfers to related parties.

"Working Capital" means the dollar amount that Current Assets less Current Liabilities is not to reduce below.

9.3 AGRICULTURAL FACILITIES: The following definitions apply to any Farm Operating Line of Credit, Farm Term Facility, Revolving Farm Term Facility, Farm Improvement and Marketing Cooperatives Loans Act Facility, Farm Mortgage Loan, Farm Provincial Loan Program or Provincial Guaranteed Farm Loan:

"Crops held for sale" means crop production harvested and stored and available for sale.

"Inventory Value" includes the total market value of your inventories listed in the Letter with respect to the applicable Facility, other than

- a) inventories supplied by trade creditors who at that time have not been fully paid and would have a right to repossess all or part of such inventories, and
- b) those inventories we may from time to time designate.

"Market Livestock" means cattle, hogs or other livestock purchased raised or with intention to feed and sell at market weights.