

# ATB LendR Loan Agreement Standard Terms and Conditions

The following are the terms and conditions for the Credit Agreement.

## 1. Definitions:

**"ATB"** means Alberta Treasury Branches, operating as ATB Financial.

**"Borrower"** means the individual or individuals who, and/or the corporate or partnership entity or entities which, signed the Credit Agreement and is (are) indebted to ATB by virtue of the Credit Agreement.

**"Credit Agreement"** means the ATB LendR Credit Agreement, with its appendices and schedule (ATB LendR Credit Agreement Standard Terms and Conditions).

**"Loan"** means the loan established by the Credit Agreement.

**"GST"** means Goods and Services Tax as defined in the *Excise Tax Act* or in any legislation in replacement thereof.

**"Lenders"** or **"Us"** or **"We"** means collectively ATB and each of the other Lenders party to this Credit Agreement.

**"Loan"** means the loan established by the Credit Agreement.

**"Prime"** means the prime lending rate per annum established by ATB from time to time for loans in Canadian dollars. Where the interest rate for the Loan is based on Prime, the applicable rate on any day will depend on the Prime in effect on that day. The statement by ATB as to Prime and as to the rate of interest applicable to the Loan on any day will be binding and conclusive for all purposes. All interest rates specified are nominal annual rates. The effective annual rate in any case will vary with payment frequency.

**"Security"** includes, without restriction, the property that is subject to a security interest or mortgage, with all proceeds and renewals thereof, accessions thereto and substitutions thereof, and continuing guarantee(s), if any, pursuant to the terms of this Credit Agreement.

**"You"** or **"Your"** means the Borrower, or the Borrower's, as applicable.

## 2. Preconditions

The Loan will not be available until the following conditions precedent have been satisfied: (a) ATB has

received all records required under the Credit Agreement, and all registrations and filings have been completed, in all cases, in form and substance satisfactory to ATB; (b) the Borrower has provided all information ATB may require, including, but not limited to, corporate records, financial statements, appraisals, environmental reports, building inspection reports, evidence of equity or down payment and ownership and any other information that ATB may require, (c) ATB has received payment of all fees due in respect hereof; (d) ATB is satisfied as to the value of the Borrower's assets and financial condition, as well as the Borrower's ability to carry on business and repay any amount owed to ATB from time to time; (e) there is no Event of Default hereunder or under any Security; and (f) all representations and warranties hereunder are true and correct, in all material respects.

## 3. Prepayment Terms

Unless demanded by ATB, You may not prepay the whole or any part of the principal sum under the Loan without ATB's written approval, which may be conditional on paying a prepayment privilege equal to 3 months' interest on the amount prepaid.

## 4. Terms

*Non-revolving:* The Loan is non-revolving. Amounts repaid may not be re-borrowed. It is understood and agreed that no Lender, including without limitation ATB, is lending money to, or depositing money with, any other Lender under the Credit Agreement or in connection with the Loan or Credit Agreement, but each is independently lending money directly to the Borrower through the ATB LendR platform based solely on its own credit decisions.

## 5. Payments

You must pay back the Loan according to the terms of the Credit Agreement. Any payment due under the Credit Agreement shall, at ATB's option, be applied firstly to accrued interest and secondly in reduction of principal. You authorize ATB to charge any payments or other amounts due under the Credit Agreement to any account You have with ATB. You will pay all outstanding amounts to ATB and authorize ATB to distribute payments due to other Lenders to such Lenders via the ATB LendR Platform.

ATB agrees it will hold any payment, prepayment or other amount received by it in respect of the Loan in respect of amounts due to any other Lender, as trustee for such Lender, and will promptly pay any such amount to the accounts such other Lenders on the ATB LendR

platform (the “**Distributions**”). In the event a scheduled payment by You is not made by the applicable time, ATB may pay to the other Lenders an amount equal to the Distribution each such Lender is entitled to receive, in lieu of distribution to the other Lenders of Distributions upon receipt of such scheduled payment. Payment or acceptance of such Distributions does not constitute a waiver of the rights of any of the Lenders hereunder.

## 6. Fees

You will pay to ATB all fees, charges, interest and indebtedness, in accordance with, and at the rates specified in, the Credit Agreement with its appendices and schedule (ATB LendR Credit Agreement Standard Terms and Conditions). You also agree to pay ATB all costs and expenses (including legal fees on a solicitor and its own client, full indemnity basis) incurred by ATB to establish, preserve and/or enforce any rights granted to ATB in the Credit Agreement. We will charge You interest, at Prime plus 3% per annum, on any expenses incurred by ATB under the Credit Agreement. You agree to pay ATB any review or extension fee for the Loan as may be established by ATB from time to time. These fees are set forth in the Credit Agreement.

By entering the Credit Agreement, you authorize ATB to debit your account as identified by you on the Platform for the purpose of collecting all fees and charges payable by you to ATB pursuant to the terms of the Credit Agreement (the “Authorization”). You agree that if any debits drawn under the Authorization are dishonoured for any reason, then ATB shall be entitled to initiate an additional debit or debits in substitution for the dishonoured debit until the debit is honoured and shall be entitled to initiate a separate debit to cover any dishonoured payment fees.

You confirm the debits authorized under this Authorization are for business purposes. You can revoke this Authorization at any time by providing written notice to ATB. This notice must be received by ATB thirty calendar days before the next debit is scheduled. To obtain a sample cancellation form, for more information on the right to cancel a pre-authorized debit agreement, you may contact ATB or visit [www.cdnpay.ca](http://www.cdnpay.ca).

ATB will debit the account for the amounts and at the times set forth in the Credit Agreement. You hereby waive the right to receive any notice, written or otherwise, from ATB of the amount to be debited to the

account and the date(s) on which such debits are to be processed.

You have certain recourse rights if any debit does not comply with the Credit Agreement. For example, you have the right to receive reimbursement for any debit that is not authorized or is not consistent with the Credit Agreement. To receive more information on recourse rights, you may contact ATB or visit [www.cdnpay.ca](http://www.cdnpay.ca).

By entering the Credit Agreement, you specifically waive the right to receive pre-notification of the amount of any pre-authorized debit made under the Credit Agreement and agree that no advance notice of the amount of the debit is required before the debit is processed.

## 7. Interest

Interest will be computed from the date(s) funds are advanced and will be calculated on the daily outstanding principal You owe to ATB. Interest will be due and payable, prior to demand, when each periodic blended payment is due. Interest will be due and payable both before and after maturity or demand, and before or after default or judgment.

## 8. Representations & Warranties

You represent and warrant in favour of each Lender that: (a) the Security is owned by You and is free of all encumbrances other than the permitted encumbrances set forth in the Credit Agreement; (b) You have full power and authority to conduct Your business, own Your properties and to execute, deliver and perform all Your obligations as detailed in the Credit Agreement; (c) unless authorized, the Security is located in Alberta and is not used in any other jurisdiction; (d) Your legal name is accurately set forth in the Credit Agreement and You have disclosed to ATB all other names by which You are known; (e) to the best of Your knowledge, the information in the applicable loan request or credit application is accurate and complete; (f) there are no environmental conditions which might negatively affect the Security or the operation of Your business; (g) all government remittances are and will remain compliant; (h) Your most recent financial statements provided to ATB, fairly represent Your financial position as of the date thereof and its results of operations and cash flows for the fiscal period covered thereby and, since the date of such financial statements, there has occurred no material adverse change in Your business or financial condition; (i) the Borrower is duly incorporated (*in the case of a corporation*) or duly created (*in the case of a partnership*), validly existing and qualified to carry on

business in Alberta; (j) the execution, delivery and performance by the Borrower of this Credit Agreement and the security documents required have been duly authorized by all necessary actions and do not violate governing documents for each, any laws to which each is subject or any agreements by which each is bound; and (k) the businesses of the Borrower are operated in accordance with all applicable laws.

Each Lender represents and warrants in favour of the Borrower and each other Lender that: (a) it is and will be empowered under all relevant law to acquire and own its share of the Loan and the Loan Documents and to enter into and carry out the terms of the Loan and the Loan Documents; each Lender will be entitled to rely on any written or oral material or matter from the other Lenders; (c) its share in the loan is not and shall not be deemed to be a loan to or a borrowing by the other Lenders and repayment of the Loan is in now way guaranteed by any other Lender.

#### **9. Obligations**

You agree to: (a) pay the Lenders the money You owe Us when due; (b) provide to Us all such Security and promises as We may require to secure the repayment of the Loan with interest thereon and execute all security agreements, mortgages, hypothecations, charges, pledges, conveyances, assignments and transfers to or in favour of ATB of all or any property, real or personal, moveable or immovable, owned by You or in which You may have any interest, and any other documents or contracts necessary to give or furnish to ATB the Security required by ATB; (c) own and maintain the Security in good condition and free of all encumbrances other than any permitted encumbrances as detailed in the Credit Agreement and those non-financial encumbrances which do not materially adversely affect market value in ATB's opinion; (d) not grant or allow to be created any subsequent liens or encumbrances of any kind on the Security; (e) unless the Security is land, not allow the Security to become affixed to land; (f) pay the cost of the registration and filing and gathering of evidence about the priority of the Lenders' Security; (g) advise ATB immediately of any sale of the Security (other than in the ordinary course of business), change in location of the Security, material loss or damage to the Security, change in Your name, or claims or litigation affecting You or the Security; (h) provide to ATB any information ATB requests about Your business, financial condition or Your property and any other relevant information We may require from time to time to allow ATB to conduct a review of the Loan; (i) allow ATB access to Your premises at any time to inspect the

Security; (j) maintain insurance in respect to the Security for the full insurable value of the Security, with first loss payable to ATB and containing a standard mortgage clause (if applicable) until the Loan is repaid in full. If You fail to do so, You agree to pay the cost of any insurance We may choose to obtain or renew; (k) provide to ATB all the other agreements that relate to this Credit Agreement; and (l) comply with all laws and regulatory requirements that relate to the operation of Your business and Your ownership of the Security.

#### **10. Fair Trading Act**

If applicable, You agree to waive the 2-day time period for delivery of the *Fair Trading Act* disclosure statement. If applicable, You may notify ATB, in writing, of Your intention to withdraw from the Credit Agreement within 2 days of signing it and if You withdraw, You have the right to be relieved from any obligations under this Credit Agreement and receive a refund of any payments made except any of the following fees which may have been incurred by ATB and charged to You: (a) search or registration costs paid to a registry or agent; (b) fees for any inspection, appraisal, survey or environmental audit report obtained by You and used by ATB; and (c) casualty insurance premium.

#### **11. Security Agreement**

The mortgage (if any) and security interest granted by You to the Lenders, whether granted previously, now or in the future, and whether direct or indirect, contingent or matured, secure payment and performance of all Your debts, obligations and liabilities to the Lenders. The time for the attachment of any security interest created has not been delayed. You acknowledge that You have waived the right to receive any financing statement, financing change statement, verification statement and any other document required pursuant to the *Personal Property Security Act* (Alberta). The obligations owed to each of the Lenders rank for all purposes and are secured under the security interest in favour of each of the Lenders on a *pari passu pro rata* basis, and no Lender or any claim of any Lender shall have priority over any other Lender or claims thereof.

No Lender will dispute or contest: (a) the validity, enforceability, priority or perfection of an lien contained in or crated by the security documents; or (b) the *pari passu* ranking between the Lenders of the liens constitutes y the security documents as security for the Loan for the benefit of the Lenders on a *pro rata* and *pari passu* basis.

#### **12. Events of Default**

Without restricting ATB's right to demand payment at any time as described in the Credit Agreement, ATB may, by notice to You, terminate any or all of the Loan and demand immediate payment and, failing such immediate payment, ATB may realize under the Security as ATB thinks fit in any of the following events: (a) You fail to pay Us, when due, any sum (or part thereof) required or fail to observe or perform, when due, any obligation due to ATB; (b) You fail to comply with the terms of the Credit Agreement or any other agreement You have with ATB; (c) You become insolvent or become subject to the provisions of any legislation for the benefit of Your creditors; (d) You sell any of the Security except in the ordinary course of business; (e) in ATB's opinion, any material adverse change occurs in Your financial condition or the ownership and operation of Your business, management, prospects, assets, liabilities or condition, financial or otherwise; (f) any representation You make to Us or to any government agency is false in any material way; (g) any guarantee is withdrawn, determined to be invalid or made ineffective for any reason; (h) if Your control ceases to be vested, either directly or indirectly, in the original shareholders disclosed to ATB. In the foregoing, "control" means the right to elect a majority of the board of directors of the Borrower; (i) if a judgment is entered against You; (j) if any action is taken to wind up Your affairs or to put You into bankruptcy or to appoint a receiver for You or any of your respective properties; (k) if You cease to carry on your business or make a bulk sale of your assets; (l) any other creditor takes collection steps against You; (m) if any of the authorizations, registrations, licenses, permits or approvals required to be obtained from or granted by any governmental authority or agency and essential to the business of the Borrower or required by legislation is not obtained or granted or, if obtained, is withdrawn, cancelled, suspended or adversely amended; or (n) if the Borrower fails to comply, at any time, with any applicable legislation, regulation, authorization, registration, license, permit or approval concerning the operation of its business (each item (a) through and including (n) constituting an "Event of Default").

ATB agrees to use reasonable efforts to notify each other Lender promptly upon becoming aware of the occurrence of any default or Event of Default under the Loan, ATB will not be liable for any accidental failure to give such notice.

### 13. Remedies

ATB has the right to require immediate payment of the Loan at any time and, at ATB's option, to exercise any of the remedies below, and, if an Event of Default occurs, ATB has the right, at ATB's option, to: (a) declare all or any amounts which are not by their terms payable upon demand, to be immediately due and payable; (b) reduce the amount of, or terminate, the Loan; (c) demand that You immediately pay back the full amount You owe Us; (d) seize the Security and dispose of same in any way permitted by law. This includes the right to take possession, sell or lease, foreclose, seize and keep the Security. If the proceeds from the sale or the value of property seized or foreclosed is not enough to repay all amounts You owe to ATB, You must pay any remaining amount; (e) refuse to make any more advances or provide any financial services to You; (f) declare You to be in default under any other agreement with ATB; (g) automatically debit any of Your accounts with ATB for all amounts payable by You pursuant to this Credit Agreement; (h) insure, maintain, repair, preserve, and/or prepare for disposition of the Security and any cost incurred to do so can be added to the amount You owe Us; and (i) invoke any other rights permitted by law.

ATB reserves the right to collect all sums due to all Lenders on behalf of the other Lenders and to distribute such amounts to the Lenders pro rata to their participation in the Loan. The Lenders agree that only ATB will have the right to commence realization proceedings under the security documents, including delivery to the Borrower of a notice of intention to enforce security.

### 14. Assignment

The Credit Agreement is binding upon You and each of the Lenders and any person who succeeds You or a Lender, as applicable, including executors, administrators, heirs, successors and permitted assigns. Notwithstanding the foregoing, the interest of any Lender may be purchased from such Lender by ATB on terms acceptable to that Lender and ATB. Any offer made by ATB to a Lender must also be made to the other Lenders on the same terms.

### 15. Governing Law

The Credit Agreement is governed by the laws of Alberta and You and each Lender agree that any dispute thereunder will be determined by the Courts of Alberta.

### 16. Privacy

We will collect, use and disclose Your personal information in accordance with law. A copy of ATB's

“Collection, Use and Disclosure” brochure can be obtained from any of ATB’s branches and a copy of ATB’s complete privacy code may be obtained from [www.atb.com](http://www.atb.com) or at any of ATB’s branches.

### 17. Notices

We may send You and any Lender monthly statements (if applicable), notices or demands for payment to the latest address We have for You or such Lender on our records. Any statement, notice or demand shall be deemed to be received by You or such Lender on the date received (if delivered personally) or the fifth day after We have mailed it (if mailed). If more than one of You has signed the Credit Agreement, communication to any one of You is deemed to be communication to all.

### 18. Positive Covenants

You, to the extent required hereunder, covenant with ATB that so long as You are indebted or otherwise obligated to the Lenders, contingently or otherwise, You will do and perform the following covenants: (a) pay and remit all sums when due to tax and other governmental authorities including, without restriction, any sums in respect of employees, and provide proof to ATB upon request; (b) provide ATB with such information and documentation as We may require from time to time in respect of the collection and payment of GST including, without restriction, information concerning the amount of taxable supplies, GST collected, input tax credits received and GST paid during each reporting period; (c) forward to ATB the copy of any GST election forms filed with Canada Revenue Agency;

### 19. Negative Covenants

You, to the extent required hereunder, covenant with ATB that while You are indebted or otherwise obligated to the Lenders, contingently or otherwise, You will not do any of the following without the prior written consent of ATB, which may be unreasonably withheld or delayed: (a) amalgamate with anybody else or voluntarily wind up the affairs of the Borrower; (b) sell, lease or dispose of any assets except: (i) inventory being sold in the ordinary course of business, (ii) assets sold, transferred or disposed of to You; (c) borrow money from or grant security to anybody other than ATB; (d) pay to or for the benefit of shareholders or persons associated with shareholders (within the meaning of the *Business Corporations Act* (Alberta)) by way of salaries, bonuses, dividends, management fees, repayment of loans or otherwise, any amount which would cause the breach of a provision hereof.

### 20. Power of Attorney

Each Lender other than ATB hereby irrevocably nominates, constitutes and appoints ATB, with full power of substitution, as its true and lawful attorney, both before and after completion of the Loan, to act on its behalf with full power and authority in its name, place and stead to execute, under seal or otherwise, swear to, acknowledge, deliver, make and file or record when, as and where required in the sole discretion of ATB.

### 21. Miscellaneous

(a) You authorize and direct ATB to automatically debit any of Your accounts with ATB for all amounts payable by You to the Lenders pursuant to this Credit Agreement. (b) Without restriction, ATB may waive the satisfaction, observance or performance of any of the conditions or covenants contained in this Credit Agreement. (c) Where more than one individual or entity signs the Credit Agreement as the Borrower, each party is jointly and severally liable for any obligation thereunder and ATB may require payment of all amounts payable under this Credit Agreement from any one or more of them. (d) Unless defined herein, capitalized terms used herein shall have the respective meanings given to them in the Credit Agreement. (f) Except as specifically amended by this Credit Agreement, all of the terms, provisions, covenants, security and other conditions contained in previous loan documents between ATB and the Borrower remain unamended and in full force and effect, and this Credit Agreement, the Security and the indebtedness herein are each hereby ratified and confirmed. (g) Except as otherwise provided in the Credit Agreement, if any provision of these Standard Terms and Conditions is in conflict with, or inconsistent with, any provision of a previous commitment letter or other credit agreement, the provisions contained in these Standard Terms and Conditions shall govern. (h) If audited financial statements are not currently required, ATB reserves the right to require audited financial statements. (i) ATB will open and maintain accounts and records evidencing the Loan made available to You by the Lenders under the Credit Agreement. ATB will record the principal amount of the Loan and the payment of principal, interest, fees and all other amounts due to the Lenders under the Credit Agreement. ATB’s accounts and records constitute, in the absence of manifest error, conclusive evidence of the indebtedness of You to each of the Lenders in accordance with the Credit Agreement. (j) No event has occurred which constitutes or which with notice, lapse of time or both would constitute a breach

of any provision of this Credit Agreement or any Security provided in connection herewith. (k) Time shall be of the essence in the Credit Agreement complete with its appendices and schedule (ATB LendR Loan Agreement Standard Terms and Conditions).