

SAFEKEEPING AGREEMENT

THIS AGREEMENT made the _____ day of _____, 20__

BETWEEN Consumer Protection BC, represented by the Director (the “**Director**”).

AND _____, a Canadian Financial Institution having a branch at _____ (the “**Financial Institution**”)

AND _____ doing business as _____, having a business address at _____ (the “**Applicant**”)

WHEREAS:

- A. Pursuant to the Business Practices and Consumer Protection Act, the Applicant has been issued a Licence or is applying for a Licence;
- B. It is a condition of the Licence that the Applicant post certain security with Consumer Protection BC;
- C. The security to be posted by the Applicant is described in Schedule “A” (the “Security” and as the context requires, Security includes Replacement Security as defined in section 6); and
- D. The Financial Institution has agreed to safe keep the Security.

NOW THEREFORE THE PARTIES agree as follows:

Safekeeping

1. The Applicant hereby deposits the Security with the Financial Institution for safekeeping in accordance with the terms of this Agreement.

Good Title

2. The Applicant represents and warrants to Consumer Protection BC and to the Financial Institution that the Security is genuine and is free and clear of all hypothecations, mortgages, liens, charges, security interest or encumbrances.

Delivery of Security

3. Subject to sections 6 and 8, the Financial Institution will safe keep the Security until Consumer Protection BC gives notice in writing to the Financial Institution to deliver the Security to Consumer Protection BC or the Applicant.

Duty to Inquire

4. The Financial Institution will not have any duty to inquire whether or not Consumer Protection BC is entitled to give notice pursuant to section 3 or 8 and any notice given by Consumer Protection BC pursuant to section 3 or 8 will be conclusive authority for the Financial Institution to act under section 3 or 8, as the case may be, whether or not Consumer Protection BC is entitled in fact or in law to give such notice.

Interest

5. Until the Financial Institution receives a notice pursuant to section 3 or 8, it will collect any interest payable in respect of the Security and pay such interest to the Applicant as such interest is payable in respect of the

Security. Any interest that is paid in respect of the Security will not form part of the Security and will not be held by the Financial Institution for safekeeping.

Reinvestment

6. If the Security matures while in safekeeping, the Financial Institution will:
 - (a) hold the Security until the Financial Institution receives instructions from the Applicant to redeem the Security for re-investment of the proceeds in a security specified by the Applicant and approved in writing by Consumer Protection BC (the "Replacement Security");
 - (b) safe keep the Replacement Security in accordance with the terms of this Agreement as if it were the Security; and
 - (c) If the Applicant does not provide the Financial Institution with the instructions contemplated in (a) above within thirty (30) days from the date the Security matures, the Financial Institution is hereby authorized by the Applicant and Consumer Protection BC to re-invest the Security for the same term of which has matured, at the then prevailing interest rates.

Safekeeping Fees

7. The Applicant will pay to the Financial Institution all fees charged by the Financial Institution for safekeeping the Security, and the Financial Institution may, notwithstanding section 5, apply interest payable to the Applicant under the Security in payment of such fees.

Proceeds of Sale

8. Notwithstanding section 3, Consumer Protection BC may provide written notice to the Financial Institution to sell or redeem the Security for the account of Consumer Protection BC, wherein the Financial Institution will:
 - (a) not more than fourteen (14) days after receiving notice under this section, mail a cheque to the Consumer Protection BC for a sum equal to the gross proceeds of the sale or redemption of the Security, less:
 - i the reasonable cost of effecting the sale or redemption of the Security, including broker's fees; and
 - ii any fees for safekeeping the Security remaining unpaid by the Applicant;
 - (b) use its best efforts to obtain the fair market value for the Security in the sale or redemption of the Security; and
 - (c) if unable to sell or redeem the Security in accordance with this section, within twenty-one (21) days after receiving notice under this section, deliver the Security to Consumer Protection BC.

Irrevocable Authority and Consent

9. The Applicant hereby provides the Financial Institution with its irrevocable authority and consent to deliver the Security to Consumer Protection BC if requested by Consumer Protection BC pursuant to paragraph #3 above. The Applicant hereby provides the Financial Institution with its irrevocable authority and consent to sell or redeem the Security for the account of Consumer Protection BC, if requested by Consumer Protection BC pursuant to paragraph #8 above.

No Lien or Set Off

10. Except as provided in this Agreement, the Financial Institution will not have any lien, charge, or right of set-off against the Security or the proceeds from the sale or redemption of the Security.

Indemnity

11. The Applicant will indemnify and save harmless Consumer Protection BC or the Financial Institution, or both, as the case may be, from and against all claims, demands, damages, losses, costs and expenses arising from any breach, violation or non-performance by the Applicant of any obligation of the Applicant under this Agreement or the Permit.

Assignment

12. Neither this Agreement, nor any right under this Agreement, will be assigned, either directly or indirectly, by the Applicant or the Financial Institution.

Termination

13. The Financial Institution may terminate this Agreement upon sixty (60) days written notice to the Applicant and Consumer Protection BC. If the Applicant has not entered into a substitute agreement satisfactory to Consumer Protection BC by the end of the sixty (60) day notice period, the Applicant hereby instructs the Financial Institution to deliver the Security to Consumer Protection BC.

Authority to Act

14. Any obligation or discretion of Consumer Protection BC under this Agreement may be exercised by the Director, and any person authorized to act for or on his behalf under this Agreement.

Incumbency

15. The Financial Institution may rely on the delegation matrices, if any and as amended from time to time and issued by Consumer Protection BC to the Canadian Bankers' Association, for purposes of determining whether or not a person has authority to act for Consumer Protection BC, pursuant to section 14.

Duty of Care

16. In performing its obligations under this Agreement, the Financial Institution will safe keep and deal with the Security with the same care as if the Security belonged to the Financial Institution.

Miscellaneous

- 17. (a) The Security shall be registered in the name of (unless otherwise required) the Applicant. All Security must mature in three years or less.
- (b) Any notice, document, statement, report, demand or payment desired or required to be given or made under this Agreement, will be in writing and may be given or made by personal delivery to the party it is to be given or made, or by mailing in Canada with postage prepaid addressed,

if to Consumer Protection BC:

The Director
Consumer Protection BC
PO Box 9244
Victoria, BC V8W 9J2
Phone: 604.320.1664
Facsimile: 250.920.7181

and if to the Financial Institution:

and if to the Applicant:

Any such notice, document, statement, report, demand or payment so mailed will be deemed given to and received by the addressee on the third business day after mailing of the same except in the event of disruption of postal services in Canada in which case any such notice, document, statement, report, demand or payment will be deemed given to and received by the addressee when actually delivered to the particular address set out above.

- (c) A party may, from time to time, advise the others by notice in writing of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified will, for purposes of the proceeding section, be deemed to be the address of the party giving such notice.
- (d) In addition to sub-paragraph 17(b), any notice, direction or document transmitted by facsimile transmission from any party will be conclusively deemed validly given to and received by the intended recipient when so transmitted if transmitted to the following numbers, as such numbers may be changed by notice in writing from any party whose number is to be changed to the other parties:

If to Consumer Protection BC: **(250) 920-7181**

If to the Financial Institution: () _____

If to the Applicant: () _____

- (e) A reference to a statute in this Agreement, whether or not that statute has been defined, means a statute of the Province of British Columbia unless otherwise stated and includes every amendment to it, every regulation made under it and any enactment passed in substitution therefore or in replacement thereof.
- (f) Unless the context otherwise requires, any reference to "this Agreement" means this instrument and all of the Schedules attached to it and any reference to any section or subsection by number is a reference to the appropriate section or subsection in this Agreement.
- (g) The heads or captions in this Agreement are inserted for convenience only and do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement.
- (h) In this Agreement, "person" includes a corporation, firm, association and any other legal entity and wherever the singular and masculine is used it will be construed as if the plural or the feminine or the neuter, as the case may be, had been used where the context or the parties so require.
- (i) Each Schedule attached to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- (j) This Agreement constitutes the entire agreement between the parties and no understanding, representations or agreements, oral or otherwise, exist between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and the Permit.
- (k) If, as between Consumer Protection BC and the Applicant, there is a conflict between the terms of this Agreement and the Licence, the terms of the Licence will govern.

- (l) Each of the parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better or more perfect and absolute performance of the terms and conditions of this Agreement.
- (m) This Agreement will enure to the benefit of and be binding upon Consumer Protection BC, the Financial Institution and the Applicant, and their successors.
- (n) All dollar amounts expressed in this Agreement refer to lawful currency of Canada.
- (o) No waiver by a party of a breach or default by another party in the observance, performance or compliance of any of its obligations under this Agreement will be effective unless it is in writing and no such waiver will be deemed or construed to be a waiver of any other breach or default and failure or delay on the part of a party to complain of an act or failure of another party or to declare such another party in default, irrespective of how long such failure or delay continues, will not constitute a waiver by such party of any of its rights against another party.
- (p) Time will be of the essence of this Agreement.
- (q) This Agreement will be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia.

IN WITNESS WHEREOF the parties have executed this Agreement in the presence of their duly authorized representative in that behalf as of the date first above written.

SIGNED on behalf of **Consumer Protection BC** by a duly authorized representative in the presence of

Witness Signature

Signature for Consumer Protection BC

SIGNED on behalf of the **Financial Institution** by a duly authorized representative(s) in the presence of

Witness Signature

Signature for the Financial Institution

Signature for the Financial Institution

FOR COMPANIES REQUIRED TO USE A CORPORATE SEAL, PLEASE AFFIX SEAL BELOW

SIGNED on behalf of the **Applicant** by a duly authorized representative(s) in the presence of

Witness Signature

Signature for the Applicant

Signature for the Applicant

SAFEKEEPING AGREEMENT

SCHEDULE "A"

Description of Security

	Issuer	Certificate Number	Amount	Percent Interest Per Annum	Maturity Date
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____

Financial Institution Stamp

Authorized Signing Officer for Financial Institution

Date