

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.  
1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
EASTERN MEAT SOLUTIONS INC., SIERRA CUSTOM FOODS INC., SIERRA  
SUPPLY CHAIN SERVICES INC., SIERRA REALTY CORPORATION, RVB  
HOLDINGS INC., VANDEN BROEK HOLDINGS (2008) INC., SIERRA REALTY  
CALGARY CORPORATION AND EASTERN MEAT SOLUTIONS (USA) CORP.**

Applicants/Moving Party

- and -

**BANK OF MONTREAL**

Respondent/Responding Party

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**RESPONDING RECORD OF THE BANK OF MONTREAL  
(Motion returnable November 21, 2024)**

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November 21, 2024

**BORDEN LADNER GERVAIS LLP**  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3400  
Toronto ON M5H 4E3  
F: 416.367.6749

**Alex MacFarlane** (LSO# 28133Q)  
amacfarlane@blg.com  
T: 416.367.6305

**Brendan Wong** (LSO# 51464A)  
bwong@blg.com  
T: 416.367.6743

Lawyers for the Responding Party,  
Bank of Montreal

## INDEX

Tab No.	Description	Pages
1.	Affidavit of Sheida Richardson, sworn November 21, 2024	1
A.	Exhibit "A" - Application for Standby Letter of Credit / Demand Guarantee, and Standby Letter of Credit / Demand Guarantee Indemnity Agreement signed October 2, 2023	5
B.	Exhibit "B" - BMO Letter of Credit issued to Sierra Winds Business Park Inc. on November 20, 2023	12
C.	Exhibit "C" - Articles of Amalgamation for Woolsey Equities filed on January 1, 2024	18
D.	Exhibit "D" - Certificate of Amalgamation for Woolsey Equities Inc. dated January 1, 2024	21
E.	Exhibit "E" - BMO Letter of Non-Renewal Notice Letter dated October 9, 2024	23
F.	Exhibit "F" - Email from Alex MacFarlane to D.J. Miller and Rebecca Kennedy dated October 12, 2024	25
G.	Exhibit "G" - Email from Rebecca Kennedy to Alex MacFarlane dated November 13, 2024	111
H.	Exhibit "H" - Letter from Rebecca Kennedy to Alex MacFarlane dated November 15, 2024	117
I.	Exhibit "I" - Email from Brendan Wong to Rebecca Kennedy dated November 18, 2024	121
J.	Exhibit "J" - Letter from Rebecca Kennedy to Alex MacFarlane and Brendan Wong dated November 19, 2024	125
K.	Exhibit "K" - Email from Brendan Wong to Rebecca Kennedy dated November 19, 2024	131
L.	Exhibit "L" - Email from Brendan Wong to Rebecca Kennedy dated November 20, 2024	135
M.	Exhibit "M" - Email from Brendan Wong to Rebecca Kennedy dated November 20, 2024	138
N.	Exhibit "N" - BMO Irrevocable Standby Letter of Credit issued November 20, 2023	148

# TAB 1

Court File No. CV-24-00720622-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EASTERN MEAT SOLUTIONS INC., SIERRA CUSTOM FOODS INC., SIERRA SUPPLY CHAIN SERVICES INC., SIERRA REALTY CORPORATION, RVB HOLDINGS INC., VANDEN BROEK HOLDINGS (2008) INC., SIERRA REALTY CALGARY CORPORATION AND EASTERN MEAT SOLUTIONS (USA) CORP.**

Applicants/Moving Party

- and -

**BANK OF MONTREAL**

Respondent/Responding Party

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**AFFIDAVIT OF SHEIDA RICHARDSON**  
**(Motion returnable November 21, 2024)**

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I, **SHEIDA RICHARDSON**, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Practice Assistant at Borden Ladner Gervais LLP, lawyers for the Respondent, Bank of Montreal (the "**Respondent**"), and as such I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge, I have stated the source of my information and believe it to be true.

2. Attached hereto and marked as **Exhibit “A”** is the Application for Standby Letter of Credit / Demand Guarantee, and Standby Letter of Credit / Demand Guarantee Indemnity Agreement signed October 2, 2023.
3. Attached hereto and marked as **Exhibit “B”** is the BMO Letter of Credit issued to Sierra Winds Business Park Inc. on November 20, 2023.
4. Attached hereto and marked as **Exhibit “C”** are the Articles of Amalgamation for Woolsey Equities filed on January 1, 2024.
5. Attached hereto and marked as **Exhibit “D”** is the Certificate of Amalgamation for Woolsey Equities Inc. dated January 1, 2024.
6. Attached hereto and marked as **Exhibit “E”** is the BMO Letter of Non-Renewal Notice Letter dated October 9, 2024.
7. Attached hereto and marked as **Exhibit “F”** is an email from Alex MacFarlane to D.J. Miller and Rebecca Kennedy dated October 12, 2024.
8. Attached hereto and marked as **Exhibit “G”** is an email from Rebecca Kennedy to Alex MacFarlane dated November 13, 2024.
9. Attached hereto and marked as **Exhibit “H”** is a letter from Rebecca Kennedy to Alex MacFarlane dated November 15, 2024.
10. Attached hereto and marked as **Exhibit “I”** is an email from Brendan Wong to Rebecca Kennedy dated November 18, 2024.

11. Attached hereto and marked as **Exhibit “J”** is a letter from Rebecca Kennedy to Alex MacFarlane and Brendan Wong dated November 19, 2024.

12. Attached hereto and marked as **Exhibit “K”** is an email from Brendan Wong to Rebecca Kennedy dated November 19, 2024.

13. Attached hereto and marked as **Exhibit “L”** is an email from Brendan Wong to Rebecca Kennedy dated November 20, 2024.

14. Attached hereto and marked as **Exhibit “M”** is an email from Brendan Wong to Rebecca Kennedy dated November 20, 2024.

15. Attached hereto and marked as **Exhibit “N”** is the BMO Irrevocable Standby Letter of Credit issued November 20, 2023.

**SWORN** by Sheida Richardson at the City of Toronto, in the Province of Ontario, before me at the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits

(or as may be)

**Nikki Kheiritash**

**SHEIDA RICHARDSON**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

This is Exhibit "A" to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.  
**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026



# Application for Standby Letter of Credit / Demand Guarantee

Date: 7/31/2023

<b>Bank of Montreal</b> <b>Global Trade Operations</b>	1. Reference Number: Date of Expiry: One year from issue date Counter-guarantee expiry date, if applicable: <a href="#">Click here to enter a date.</a> Automatic extension, if applicable: <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Semi-Annual with <input checked="" type="checkbox"/> 30 <input type="checkbox"/> 60 <input type="checkbox"/> 90 days of notice of non-renewal final expiry date, if applicable: <a href="#">Click here to enter a date.</a>
2. Please issue / Request your correspondent to issue Irrevocable: <input checked="" type="checkbox"/> Standby Letter of Credit <input type="checkbox"/> Demand Guarantee	3. Method of Communication (Please check the drop down menu) By: Courier To: <del>XXXXXXXX</del> Applicant <i>BW</i> (If Other, _____)
4. Full name and address of the Applicant (the "Borrower"): Eastern Meat Solutions Inc. 5090 Explorer Drive, Suite 203, Mississauga, Ontario, L4W 4T9 Canada	5. Full name and address of the Beneficiary: 6. SIERRA WINDS BUSINESS PARK INC. #1600, 10303 Jasper Avenue NW, Edmonton, AB T5J 3N6, Canada
7. Currency and Amount CAD \$1,500,000	8. Partial drawings <input checked="" type="checkbox"/> Allowed <input type="checkbox"/> Not Allowed

9. Transferable

Yes     No

10. Purpose of the instrument: (indicate the purpose of the underlying obligation, e.g. description of the goods or services, or project/contract, lease agreement, etc.): Security Deposit on a Lease Agreement entered into between Sierra Realty Calgary Corporation as tenant and Sierra Winds Business Park Inc. as landlord for the lease of premises described as Plan 1910413 Block 1 Lot 1 dated March 10, 2023

Instrument to be issued in accordance with:

BMO's standard text  
 Proforma text of instrument attached (subject to BMO's approval)

11. Special Instruction(s) (check applicable box)

Instrument to be issued in the name of Eastern Meat Solutions Inc. on behalf of Sierra Realty Calgary Corporation, 5090 Explorer Drive, Suite 203, Mississauga, Ontario, L4W 4T9 Canada ("Specified Party").

Other LC to be issued under the EDC backed facility

12. The Standby Letter of Credit issued based on this Application will be subject to the terms and conditions of (check applicable box):

The current International Standby Practices ("ISP") of the ICC  
 The current Uniform Customs and Practice for Documentary Credits ("UCP") of the International Chamber of Commerce (the "ICC")

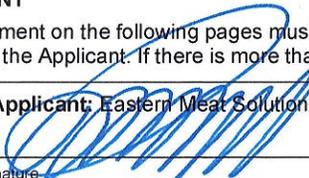
A Demand Guarantee issued based on this Application will be subject to the terms and conditions of the current Uniform Rules for Demand Guarantees ("URDG") of the ICC.

Documents presented and conforming to the appropriate ICC rule will be acceptable unless the terms of this Application specifically provide otherwise. The UCP, ISP or the URDG of the ICC, as applicable, have been expressly brought to my/our attention and I/we have knowledge of them.

### IMPORTANT

The Agreement on the following pages must be signed. The Applicant has read the Agreement and agrees that it is accepted by and is binding on the Applicant. If there is more than one Applicant, each Applicant must sign both this Application and the Agreement.

Name of Applicant: Eastern Meat Solutions Inc.

Per:   
Signature

Signature

Robert Vanden Broek

Print Name &amp; Title

Print Name &amp; Title

I/We have authority to bind the entity

## Standby Letter of Credit / Demand Guarantee Indemnity Agreement

In consideration of the issuance by Bank of Montreal ("BMO") of a standby letter of credit / demand guarantee / counter guarantee or other instrument ("Instrument") substantially according to the application appearing on the reverse side hereof the Applicant (the "Applicant") agrees as follows:

### APPLICATION OF AGREEMENT

1. **Binding Effect.** The obligations of the Applicant under this Agreement shall be absolute, irrevocable and unconditional and shall not be reduced or affected by any event, occurrence or circumstances whatsoever, including, without limitation: (i) the existence of any claim, setoff, defense or other right which the Applicant may have at any time against a beneficiary named in the Instrument or any transferee of such Instrument (or any person for whom any the transferee may be acting), or against BMO or any other person, (ii) the surrender or impairment of any security for the performance or observance of any of the terms of this Agreement or the Instrument, (iii) any extension of the expiry date of the Instrument or any increase in the amount thereof, or alteration of any of the terms and conditions at the Applicant's request or with the Applicant's consent or (iv) any change in the composition of the Applicant, the parties to or the parties contemplated in this Agreement, including, without limitation, any change arising from the accession of one or more new partners, or from the death, disability, impairment, retirement, termination, withdrawal or secession of any partner or partners, or merger or amalgamation of one or more corporations. In the event of any of the foregoing circumstances, all the terms of this Agreement shall remain in full force and effect, without release of any party hereto, and this Agreement shall continue to apply to any and all amounts that BMO may ultimately be required to pay under the Instrument by reason of having issued same.
2. **Definitions.** As used in this Agreement, the following terms have the meanings specified below:
  - "Applicant" has the meaning set forth in the preamble hereto.
  - "BMO" has the meaning set forth in the preamble hereto.
  - "Bank Related Parties" means BMO and its affiliates and the respective partners, directors, officers, employees, Suppliers, agents, advisors and other representatives of BMO and its affiliates.
  - "Change in Law" has the meaning set forth in Section 6.
  - "Communication" has the meaning set forth in Section 24.
  - "Damages" has the meaning set forth in Section 3(c).
  - "Documents" means, in relation to an Instrument, any and all bills, documents of title, bills of lading, warehouse receipts, transportation documents, insurance policies, certificates, notices, and other documents relating to such Instrument or the Goods or services of relevance thereto.
  - "Goods" means all goods, products and other property to which Documents relate.
  - "ICC Rules" has the meaning set forth in Section 8.
  - "Instrument" has the meaning set forth in the preamble hereto.
  - "Other Currency" has the meaning set forth in Section 18.
  - "Personal Information" has the meaning set forth in Section 23.
  - "Procedures" has the meaning set forth in Section 24.
  - "Representatives" has the meaning set forth in Section 24.
  - "Set-off Obligations" has the meaning set forth in Section 22.
  - "Specified Party" has the meaning set forth in Section 3(g).
  - "Suppliers" means any suppliers, licensors, service providers, including BMO's affiliates, service organizations, correspondent banks, agents or vendors of BMO or its affiliates.

### INDEMNITY AND PROCESSING TERMS

3. **Payments, Reimbursements and Indemnity.**
  - a. **Reimbursements Generally.** The Applicant agrees to pay BMO in immediately available and freely transferable funds the amount of each draft or other request for payment received under the Instrument. Each such payment shall be made at the maturity of each respective draft or other request for payment received or, if so demanded by BMO, on demand in advance of any such drawing or request or its maturity.
  - b. **Certain Payments and Reimbursements.** The Applicant agrees to pay to BMO in immediately available and freely transferable funds, immediately on demand by BMO, the full amount of BMO's contingent liability, as determined by BMO and notified to the Applicant: (i) in respect of an Instrument outstanding at the time any credit facility pursuant to which an Instrument was issued is terminated; (ii) in respect of an Instrument which has become the subject matter of any legal proceeding, order or judgment, injunction or other such determination, whether interim, temporary or permanent, which might have the effect of restricting payment by BMO

under such Instrument or extending BMO's liability under the Instrument beyond the expiration date of such Instrument; (iii) in respect of an Instrument with an indefinite, unlimited or non-existent expiry date; and (iv) in respect of an Instrument which is or becomes affected by, or BMO's obligations pursuant to the Instrument are or become affected by, any foreign law, rule, sanction, regulation or policy, including, without limitation, the non-applicability of the ICC Rules.

- c. **Indemnity.** The Applicant hereby agrees to indemnify and hold the Bank Related Parties harmless from and against all claims, proceedings, actions, charges, complaints, costs (including legal fees on a substantial indemnity basis and disbursements), damages, demands, expenses, liabilities, losses and other consequences which any Bank Related Party may, directly or indirectly, incur, sustain or suffer (collectively, "**Damages**"), except to the extent caused solely by its own gross negligence or wilful misconduct, as a direct or indirect result of issuing the Instrument or enforcing or protecting the provisions hereof, including, without limitation: (i) charges by other banks or financial institutions, legal expenses and other professional expenses reasonably incurred by any Bank Related Party and whether incurred in defending any action brought against any Bank Related Party to compel payment under the Instrument or to restrain any Bank Related Party from making payment thereunder, or in any proceedings brought by any Bank Related Party with respect to the Instrument, or against the Applicant, any guarantor of the Applicant's liabilities to any Bank Related Party hereunder, or with respect to the Applicant's or any guarantor's property charged or pledged to any Bank Related Party for the purpose of protecting, taking possession thereof, holding or realizing thereon, or otherwise in connection herewith, (ii) Damages related to the effect of an indefinite, unlimited or non-existent expiry date in the Instrument; (iii) Damages related to the effect of any foreign laws, rules, sanctions, regulations or policies on the Instrument or on any Bank Related Party's obligations pursuant to the Instrument, including, without limitation, the non-applicability of the ICC Rules and (iv) Damages related to (A) any unauthorized use of any service, (B) BMO acting, delaying in acting or declining to act on any instruction or Communication, (C) any systems failure, malfunction or delay, (D) any failure to provide any service or to act on any instruction or Communication for any reason outside BMO's control, including, without limitation, the acts or omissions of, or the insolvency or bankruptcy of, other financial institutions, or (E) the failure of the Applicant to comply with Procedures.

The Applicant hereby further agrees to indemnify and hold Bank Related Parties harmless from and against all Damages arising out of transmissions, including delay or loss in transit of any message(s), letter(s) or Document(s), or for delay, mutilation or from insufficient or incorrect particulars being transmitted, or other error(s) arising in the transmission or delivery of any electronic communication or any telecommunication, including transmission by Internet, cable, electronic mail, wireless or otherwise, and any Communication.

The Applicant agrees to pay the amounts described in this Subsection (c) to the applicable Bank Related Party in immediately available and freely transferable funds immediately on demand by such Bank Related Party. In no event will any Bank Related Party be responsible for indirect, consequential or special damages.

- d. **No Set-Off or Counterclaim; Taxes.** All payments under this Agreement shall be made to BMO without withholding, deduction or set-off and free and clear of the effects of any required withholding or similar tax. The Applicant acknowledges that BMO's obligations to pay or fulfil any obligation under the Instrument are not subject to claims or defences by the Applicant resulting from its relationship with other parties or otherwise.
- e. **Applicable Currency.** All payments made under this Agreement shall be made in Canadian dollars (in respect of an Instrument denominated in Canadian dollars) or the Canadian dollar equivalent of any foreign currency (with respect to an Instrument denominated in such foreign currency) at BMO's prevailing selling rate for the applicable foreign currency, as determined by BMO and notified to the Applicant. In the event of any payment in any foreign currency, the Applicant shall remain liable to BMO for any deficiency which may result if the actual cost to BMO of settlement of the amount owing under the Instrument proves to be in excess of the amount so paid by the Applicant, and the Applicant shall be entitled to a refund, without interest, of any excess payment made by the Applicant.
- f. **Overdue Amounts.** Any amounts not paid when due hereunder shall bear interest at such lawful rates as BMO may in its discretion determine, payable on demand.
- g. **Specified Parties.** If the Applicant requests BMO to issue the Instrument in support of, on behalf of, for the benefit of, or in the name of a third party (the "**Specified Party**") and BMO agrees, in its sole discretion, to do so, the Applicant confirms that: (i) it is authorized to act and deliver instructions on behalf of the Specified Party for all matters relating to the Instrument, including without limitation, all matters relating to the application, processing, renewal and amendment of the Instrument or waiver of any discrepancies; (ii) BMO is entitled to deal solely with the Applicant for all such matters; and (iii) the Applicant will be fully responsible for and liable to BMO for all actions and omissions in relation to the Instrument, and such liability will not be affected by any dispute between the Applicant and the Specified Party. The Applicant further agrees that BMO has no obligation to inquire into or verify the authority of the Applicant to act and deliver instructions on behalf of the Specified Party or to report to the Specified Party on the Applicant's actions or any other matters relating to the Instrument. For greater certainty, the Applicant will be fully responsible and liable to BMO for all of its reimbursement and indemnity obligations hereunder, notwithstanding that the Applicant has requested the Instrument to be issued in support of, on behalf of, for the benefit of or in the name of the Specified Party.

#### 4. Limitations of Liability; Honor of Payments; Exclusions.

- a. **Documents Generally.** None of the Bank Related Parties or their respective correspondents or agents assumes any liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any Document(s), or for the general or particular conditions stipulated in the Document(s) or superimposed thereon; nor do they assume any liability or responsibility for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the Goods or services represented by any Document(s), or for the good faith or acts or omissions, solvency, performance or standing of the beneficiary, or any other person whomsoever; nor shall any Bank Related Party assume any liability or responsibility for any error, neglect or default of any Bank Related Party's correspondents and the Applicant hereby assumes and undertakes all such risk, including acts of the users of the Instrument, and the Applicant further agrees that a Bank Related Party may hold the delivery of the Documents conforming to the Instrument as sufficient evidence of the good faith of the beneficiary and of the Goods or services described therein, without assuming any responsibility in regard to the shipment or services.

- b. **Honor of Payments.** BMO shall be entitled to honor any request for payment under the Instrument that substantially complies on its face with the terms and conditions of such Instrument, even if such Instrument by its terms requires strict compliance. In no event shall any Bank Related Party have any liability to the Applicant or to anyone else for recognizing or honoring any forged or fraudulent Document or otherwise for any action of any beneficiary or any shipper or other carrier of property related to the Instrument or for any failure of any documentation to accurately reflect any circumstance related to the Instrument or the property that is the subject of such Instrument, notwithstanding any notice from the Applicant or anyone else of such forgery, fraud, action, or other circumstance.
  - c. **Transmissions and Terms.** Each Bank Related Party assumes no liability or responsibility for errors in translation and/or interpretation of technical terms, and reserves the right to transmit the Instrument terms without translating them. BMO may transmit all or any portion of any message encrypted as BMO may deem most expedient, the same being forwarded solely at the request and for the account and risk of the Applicant.
  - d. **Limited Nature of Bank Obligations.** The Applicant fully understands and agrees that BMO's sole obligation to the Applicant shall be limited to honoring requests for payment made under and in compliance with the terms of the Instrument, and BMO's obligations remain so limited even if BMO or another Bank Related Party may have assisted in the preparation of the wording of the Instrument or any Documents required to be presented thereunder or may otherwise be aware of the underlying transaction giving rise to the Instrument and this Agreement.
5. **Account Charges; Fees.** BMO and its affiliates may charge to any account of the Applicant any and all amounts payable to BMO or its affiliates by the Applicant in connection with the Instrument. Charges shall be made by BMO at the rates (i) set forth in the credit facility made available by BMO, as applicable; (ii) set out in the current version of the Global Trade Finance Standard Pricing Schedule accessible at [bmo.adobeconnect.com/gtsp/ricing](http://bmo.adobeconnect.com/gtsp/ricing), which may be amended by BMO in any format from time to time with notice; or (iii) as may be agreed between BMO and the Applicant in writing from time to time; plus all correspondents' charges and out-of-pocket expenses incurred by BMO under or in connection with the Instrument.
  6. **Yield Protection.** The Applicant shall reimburse BMO upon demand for all reduced rates of return and increased costs sustained or incurred by BMO and reasonably allocated by BMO if any change or proposed change in law or any governmental rule, sanction, regulation, policy, guideline or directive (whether or not having the force of law) or the interpretation thereof (any of the foregoing events, a "Change in Law") reduces the return to BMO or affects the amount of capital required to be maintained by BMO in respect of the Instrument, and all costs and expenses arising out of any reserve requirement for, or any assessment of deposit insurance premium on, the Instrument. Notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act in the United States and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the Canadian or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law" regardless of the date enacted, adopted, issued or implemented. BMO will promptly notify the Applicant of any event of which it has knowledge and which will entitle BMO to compensation pursuant to this Section. A certificate of BMO claiming compensation under this Section and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error.
  7. **Acceleration.** The Applicant agrees that if (i) the Applicant suspends payment, or if any amount owing by the Applicant is unpaid when due, or if any other obligation under the Instrument, or under any other credit issued on account of the Applicant, is not fulfilled, or if any other indebtedness or liability of the Applicant is overdue and unpaid (including, without limitation, any amounts demanded in advance of any drawing, request or maturity in accordance with this Agreement); or (ii) the Applicant becomes bankrupt or insolvent, or if proceedings are taken by or against it for the appointment of a receiver, liquidator or other similar official, or if an assignment or plan of arrangement or proposal for the benefit of creditors is made, or if proceedings seeking its liquidation or winding-up, or seeking re-organization, relief from creditors or other similar proceedings are commenced, then all obligations, acceptances, indebtedness and liabilities whatsoever of the Applicant, including, without limitation, those arising under the Instrument, shall mature (or be deemed to have matured) and become due and payable at the option of BMO without notice, provided that upon the occurrence of any of the events described in clause (ii) above, such obligations, acceptances, indebtedness and liabilities shall automatically become immediately due and payable without notice.
  8. **ICC Rules.** The Instrument shall be subject to the current Uniform Customs & Practice for Documentary Credits, the current Uniform Rules for Demand Guarantees, or the current International Standby Practices, issued by the International Chamber of Commerce, as specified in the Instrument, as such rules may be amended from time to time (collectively, the "ICC Rules"). If the provisions of this Agreement conflict with the ICC Rules, the provisions of this Agreement shall prevail.

## GENERAL TERMS

9. **Assignment.** The Applicant is not entitled to assign any of its rights or obligations under this Agreement.
10. **Waivers of Rights.** No term or provision of this Agreement is deemed waived and no breach excused, unless the waiver or consent is in writing and signed by the party claiming to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, does not constitute consent to, waiver of, or excuse for, any other different or subsequent breach.
11. **Governing Law; Submission to Jurisdiction.**
  - a. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
  - b. The Applicant hereby irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of Ontario in any action or proceeding arising out of or relating to this Agreement or for recognition or enforcement of any judgment, and each of the Applicant and BMO hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in Ontario. Each of the Applicant and BMO agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that BMO may otherwise have to bring any action or proceeding relating to this Agreement against the Applicant or its properties in the courts of any jurisdiction.
  - c. The Applicant hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any Ontario court. Each of the Applicant and BMO hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.
12. **Severability.** Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The Applicant and BMO shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provision with a valid provision the economic effect of which is as close as possible to that of the invalid, illegal or unenforceable provision.
13. **Non-Limitation of Rights.** This Agreement shall not be construed as limiting any rights of BMO which may be set out in any other agreement (whether oral or written) between BMO and the Applicant, including, without limitation, any other agreement made in respect of the Instrument or any credit facility. The rights and powers conferred hereby are in addition to and without prejudice to any other rights which BMO may now have or hereafter acquire from the Applicant or others.
14. **Additional Security.** The Applicant further agrees to furnish any security or any additional security which may from time to time be required by BMO.
15. **Amendments.** This Agreement will not be amended, modified or supplemented except in writing duly executed by the duly authorized representatives of the Applicant and BMO.
16. **Interpretation.** The division of this Agreement into sections and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement. References in this Agreement to sections are to the sections of this Agreement. Unless otherwise specified, words importing the singular include the plural and vice versa.
17. **Binding on Successors and Assigns.** This Agreement shall be binding upon each of the Applicant and BMO and their respective successors and permitted assigns and enure to the benefit of BMO and its successors and assigns.
18. **Judgment Currency.** The obligation of the Applicant hereunder to make payments in a currency other than Canadian dollars ("Other Currency") shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into Canadian dollars except to the extent that such tender or recovery shall result in the effective receipt by BMO of the full amount of the Other Currency so payable hereunder. Accordingly, the obligation of the Applicant shall be enforceable as an alternative or additional cause of action for the purposes of recovery in Canadian dollars of the amount (if any) by which such effective receipt shall fall short of the full amount of Other Currency so payable hereunder, and shall not be affected by any judgment being obtained for any other sums due hereunder.
19. **Further Assurances.** The Applicant agrees to execute such further documents and to perform, or cause to be performed, such further and other acts as may be necessary or desirable to give full effect to this Agreement.
20. **Additional Applicants.** If this Application and Agreement is executed by two or more parties under the heading "Applicant", the term "Applicant" shall be read to include all such parties and each Applicant agrees that it is jointly and severally and, under Quebec law, solidarily, which means both individually and together, liable and responsible for all obligations of the Applicant hereto.
21. **Counterparts; Electronic Transmissions.** This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. Any counterpart of this Agreement may be executed and circulated by facsimile or electronic mail and any counterpart executed and circulated in such a manner shall be deemed to be an original counterpart of this Agreement. All counterparts shall be construed together and shall constitute one and the same original agreement.
22. **Set-off.** In addition to, and not in limitation of, any rights now or hereafter granted to BMO under applicable law or any other agreement between the Applicant and BMO, upon any obligations of the Applicant to BMO under this Agreement becoming due and payable (whether by way of demand or otherwise, collectively, the "Set-off Obligations"), BMO may, at any time without notice to the Applicant or any other person, the right to receive any notice being expressly waived by the Applicant, set-off and compensate and apply any deposits, general or special, time or demand, provisional or final, matured or unmatured, and any other indebtedness at any time owing by BMO to or for the credit of or the account of the Applicant, against and on account of the Set-off Obligations, even if any such Set-off Obligations are contingent or unmatured.



- 23. **Use of Personal Information.** The Applicant consents to: (a) BMO processing any of its personal information, as defined in the *Personal Information Protection and Electronic Documents Act* (Canada) ("**Personal Information**"); (b) BMO transmitting Personal Information to Bank Related Parties and others, including in locations outside of Canada, for processing.

The Applicant also consents to BMO and any Bank Related Party processing and using its information and Personal Information for the following purposes: (a) issuing the Instrument and any related services; (b) servicing the Applicant's relationships with BMO and any Bank Related Party; (c) satisfying customer due diligence requirements and other anti-money laundering / counter-terrorist financing screening in Canada and other jurisdictions in which BMO and any Bank Related Party operates, (d) financial risk assessment, compliance and regulatory reporting and fraud prevention; (e) helping BMO and any Bank Related Party to identify products and services which may interest the Applicant (unless otherwise indicated by the Applicant); and (f) aggregation and analysis of client business metrics to understand and develop BMO's and any Bank Related Party's businesses, including new and innovative products and services offered in the future.

BMO's full Privacy Code can be found at [bmo.com/privacy](http://bmo.com/privacy)

If any Personal Information belongs to the Applicant's employees, clients, customers or other individuals other than the Applicant, the Applicant, by providing BMO and any Bank Related Party with such Personal Information: (a) gives such consent and acceptance on behalf of such persons; (b) warrants and represents to BMO and any Bank Related Party that such persons have given the Applicant the power to give such consent and acceptance on their behalf; and (c) agrees to indemnify BMO and any Bank Related Party fully against any damage, loss, cost or liability (including legal fees and the cost of enforcing the indemnity) arising out of breach by the Applicant of this warranty and representation.

- 24. **Communication.** The Applicant agrees that information and instructions regarding the Instrument may be communicated between the Applicant and BMO by means of any telecommunication or electronic transmission method including, without limitation, electronic mail, including any attachments thereto, and by facsimile transmission (each a "**Communication**"). The Applicant agrees to monitor and supervise the Applicant's employees, agents, representatives or other persons purporting to act on the Applicant's behalf ("**Representatives**") and to comply with operating procedures and requirements BMO may require in connection with any Communication, including, but not limited to, procedures regarding encryption and transmission ("**Procedures**"). BMO will inform the Applicant of such Procedures as necessary and may amend or supplement the Procedures from time to time.

The Applicant represents and warrants that each Representative is authorized to exercise all rights, powers and authorities in connection with the Instrument, including to incur liabilities and obligations and otherwise conduct and transact any business on the Applicant's behalf.

Any Communication BMO receives which purports to be from the Applicant, including its Representatives, in the absence of BMO's gross negligence or wilful misconduct, will be binding on the Applicant and will constitute the Applicant's valid instruction to BMO whether or not authorized by or originated by the Applicant and whether or not accurately communicated or received, without the need for further verification by BMO.

BMO may decline or delay acting on any Communication for any reason in its sole discretion, including, without limitation, if the instructions in any Communication are incomplete, ambiguous or cannot be carried out due to insufficient funds or otherwise; if Procedures are not complied with; if BMO doubts the authenticity of any Communication or the lawfulness of any instruction given in any Communication; or if the Communication has not been received by BMO. As such, BMO makes no representation that the Communication will be acted upon.

BMO will not be liable to the Applicant or any third parties for Damages arising directly or indirectly from: (i) the monitoring, interception, rerouting, copying or usage of any Communication by unintended parties; (ii) BMO's potential delay or inaction regarding any Communication; (iii) fraud of Representatives; (iv) the Applicant's failure to comply with Procedures; (v) data or transmission errors; (vi) any system, telecommunication, computer hardware or software failure, malfunction or delay; or (v) causes beyond BMO's control.

- 25. **French Language Clause.** The parties have required that this Agreement and all documents relating thereto be drawn up and executed in English. Les parties ont demandé que cette convention ainsi que tous les documents qui s'y rattachant soient rédigés et signés en anglais.

Name of Applicant: ~~Eastern Meat Solution Inc.~~

Per:   
 Print Name & Title  
 Robert Vanden Broek - CEO

Per: \_\_\_\_\_  
 Print Name & Title

I/We have authority to bind the entity.

Date: [Click here to enter a date.](#) **October 2, 2023**

This is Exhibit “**B**” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026



**Bank of Montreal**

250 Yonge St., 11th Floor  
Toronto, ON M5B 2L7  
Tel: 416 598-6112  
Fax: 416 598-6076  
SWIFT: BOFMCAT2

**Irrevocable  
Standby Letter of Credit No.: BMT06972210S**

ISSUE DATE: NOVEMBER 20, 2023  
EXPIRY DATE: NOVEMBER 19, 2024

BENEFICIARY:  
SIERRA WINDS BUSINESS PARK INC.,  
#1600, 10303 JASPER AVENUE NW,  
EDMONTON, AB T5J 3N6

APPLICANT:  
EASTERN MEAT SOLUTIONS INC., ON BEHALF OF SIERRA REALTY CALGARY CORPORATION.  
5090 EXPLORER DRIVE,  
SUITE 203, MISSISSAUGA,  
ONTARIO, L4W 4T9

AMOUNT: ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00).

WE HEREBY AUTHORIZE YOU TO DRAW ON BANK OF MONTREAL, GLOBAL TRADE OPERATIONS, 250 YONGE STREET, 11TH FLOOR, TORONTO, ON M5B 2L7, FOR THE ACCOUNT OF EASTERN MEAT SOLUTIONS INC. ON BEHALF OF SIERRA REALTY CALGARY CORPORATION UP TO AN AGGREGATE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00), AVAILABLE WITH OURSELVES, ON DEMAND, BY PAYMENT, AGAINST PRESENTATION OF THE DOCUMENT(S) DETAILED HEREIN.

1. BENEFICIARY'S CERTIFICATE, ON ITS LETTERHEAD, COMPLETED, DATED AND PURPORTEDLY SIGNED BY AN AUTHORIZED INDIVIDUAL STATING:  
"THE TENANT SIERRA REALTY CALGARY CORPORATION HAS FAILED TO FULFILL ITS OBLIGATIONS PURSUANT TO THE LEASE AGREEMENT ENTERED INTO BETWEEN SIERRA REALTY CALGARY CORPORATION AS TENANT AND SIERRA WINDS BUSINESS PARK INC., AS LANDLORD FOR THE LEASE PREMISES DESCRIBED AS PLAN 1910413 BLOCK 1 LOT 1 DATED MARCH 10, 2023, AS MAY BE AMENDED, SUPPLEMENTED OR RESTATED FROM TIME TO TIME. THEREFORE, WE ARE DRAWING FOR CAD....., UNDER LETTER OF CREDIT NO BMT06972210S. PLEASE WIRE PROCEEDS TO: ....."
2. THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT FOR OUR ENDORSEMENT AND WILL BE RETURNED TO YOU UNLESS FULLY EXHAUSTED.

PRESENTATION OF YOUR DRAWING(S) UNDER THIS STANDBY LETTER OF CREDIT ARE RESTRICTED TO US. WE AGREE WITH YOU TO HONOR YOUR DRAWING(S) PRESENTED IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WHEN RECEIVED AT BANK OF MONTREAL, GLOBAL TRADE OPERATIONS, 250 YONGE STREET, 11TH FLOOR, TORONTO, ON M5B 2L7, ON OR BEFORE THE THEN CURRENT EXPIRATION DATE.



DRAWINGS BY FACSIMILE ARE PERMITTED. SUCH DRAWINGS (S) SHALL BE MADE TO FACSIMILE NUMBER 416-598-6075 (EACH SUCH DRAWING, A "FAX DRAWING"); PROVIDED, HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 416-598-6112. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS, AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL AND FINAL DRAWING THE ORIGINAL STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

THE AMOUNT OF THIS STANDBY LETTER OF CREDIT MAY ONLY BE REDUCED BY DRAWINGS ENDORSED HEREON OR AS ADVISED BY NOTICE IN WRITING TO US BY YOU.

TERMS OF THIS STANDBY LETTER OF CREDIT WILL CONTINUE UP TO NOVEMBER 19, 2024 AND WILL EXPIRE AT OUR COUNTERS ON THAT DATE AND YOU MAY CALL FOR PAYMENT OF THE FULL AMOUNT OUTSTANDING UNDER THIS LETTER OF CREDIT AT ANY TIME PRIOR TO THAT DATE SUBJECT TO THE FOLLOWING:

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR FROM THE PRESENT OR ANY FUTURE EXPIRY DATE HEREOF, UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO SUCH EXPIRY DATE, WE SEND YOU NOTICE IN WRITING BY REGISTERED MAIL OR COURIER, THAT WE ELECT NOT TO CONSIDER THIS STANDBY LETTER OF CREDIT TO BE RENEWABLE FOR AN ADDITIONAL PERIOD. UPON RECEIPT BY YOU OF SUCH NOTICE, YOU MAY DRAW HEREUNDER BY MEANS OF YOUR SIGNED DEMAND FOR PAYMENT CERTIFYING THAT THE AMOUNT DRAWN WILL BE RETAINED AND USED BY YOU TO MEET OBLIGATIONS INCURRED OR TO BE INCURRED UNDER THE LEASE AGREEMENT DATED MARCH 10, 2023 BETWEEN SIERRA REALTY CALGARY CORPORATION AS TENANT AND SIERRA WINDS BUSINESS PARK INC., AS LANDLORD FOR THE LEASE PREMISES DESCRIBED AS PLAN 1910413 BLOCK 1 LOT 1 AS MAY BE AMENDED, SUPPLEMENTED OR RESTATED FROM TIME TO TIME.

PARTIAL DRAWINGS ARE PERMITTED.

THIS LETTER OF CREDIT IS TRANSFERABLE ONE OR MORE TIMES, BUT IN EACH INSTANCE ONLY IN THE FULL AMOUNT AVAILABLE TO BE DRAWN UNDER THIS LETTER OF CREDIT AT THE TIME OF SUCH TRANSFER. ANY SUCH TRANSFER MAY BE EFFECTED ONLY THROUGH BANK OF MONTREAL, AND ONLY UPON PRESENTATION TO US AT OUR PRESENTATION OFFICE SPECIFIED HEREIN OF A DULY EXECUTED TRANSFER REQUEST IN THE FORM ATTACHED HERETO AS EXHIBIT "A", WITH INSTRUCTIONS THEREIN IN BRACKETS COMPLIED WITH, TOGETHER WITH THE ORIGINAL OF THIS LETTER OF CREDIT AND AMENDMENT(S) THERETO. EACH TRANSFER SHALL BE EVIDENCED BY OUR ENDORSEMENT ON THE REVERSE OF THE ORIGINAL OF THIS LETTER OF CREDIT, AND WE SHALL DELIVER SUCH ORIGINAL TO THE TRANSFEREE. THE TRANSFEREE'S NAME SHALL AUTOMATICALLY BE SUBSTITUTED FOR THAT OF THE BENEFICIARY WHEREVER SUCH BENEFICIARY'S NAME APPEARS WITHIN THIS LETTER OF CREDIT. NOTWITHSTANDING ANY OTHER TERMS HEREIN, A TRANSFER MUST COMPLY WITH ALL APPLICABLE LAWS, INCLUDING INTERNATIONAL TRADE SANCTIONS AND ANTI-MONEY LAUNDERING REGULATIONS.

THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 ("ISP98"), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590.



BANK OF MONTREAL

AUTHORIZED SIGNING OFFICER

A handwritten signature in black ink, which appears to be "Aloysiouse Palihakkarage Don", is written over the printed text.

Aloysiouse Palihakkarage Don

ORIGINAL



THIS IS AN INTEGRAL PART OF STANDBY LETTER OF CREDIT NO. BMT06972210S AND MUST BE ATTACHED THERETO.

EXHIBIT "A" - REQUEST FORM FOR FULL TRANSFER

(TRANSFER FORM TO BE PREPARED ON BENEFICIARY'S COMPANY LETTERHEAD)

DATE:

AMOUNT:

ISSUING BANK'S REFERENCE: BMT06972210S

FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY IRREVOCABLY TRANSFERS TO:

NAME OF TRANSFEREE:

ADDRESS OF TRANSFEREE:

OTHER TRANSFEREE INFORMATION:

ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY TO DRAW UNDER THE ABOVE LETTER OF CREDIT UP TO ITS AVAILABLE AMOUNT AS OF THE DATE OF THIS TRANSFER, AS SHOWN ABOVE.

BY THIS TRANSFER, ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY IN SUCH STANDBY LETTER OF CREDIT ARE TRANSFERRED TO THE TRANSFEREE, AND THE TRANSFEREE SHALL HAVE THE SOLE RIGHTS AS BENEFICIARY THEREOF, INCLUDING SOLE RIGHTS RELATING TO ANY AMENDMENTS NOW EXISTING OR HEREAFTER MADE. ALL AMENDMENTS ARE TO BE ADVISED DIRECTLY TO THE TRANSFEREE WITHOUT NECESSITY OF ANY CONSENT OR NOTICE TO THE UNDERSIGNED BENEFICIARY.

THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT IS RETURNED HERewith, TOGETHER WITH ANY AND ALL AMENDMENTS, AND WE ASK YOU TO TRANSFER THE LETTER OF CREDIT AND FORWARD IT DIRECTLY TO THE TRANSFEREE WITH YOUR NOTICE OF TRANSFER.

WE CERTIFY THAT THE TRANSFEREE HAS ACQUIRED BENEFICIARY'S RIGHTS AND OBLIGATIONS IN THE UNDERLYING RELATIONSHIP.

ENCLOSED IS OUR REMITTANCE OF CAD335.00 BEING TRANSFER FEE OF CAD300.00 PLUS CAD35.00 COURIER FEE IN PAYMENT OF YOUR TRANSFER COMMISSION, AND IN ADDITION THERETO WE AGREE TO PAY YOU ON DEMAND ANY EXPENSES WHICH MAY BE INCURRED BY YOU IN CONNECTION WITH THIS TRANSFER.

\_\_\_\_\_  
SIGNATURE AUTHENTICATION:

\_\_\_\_\_  
BENEFICIARY'S NAME AS PER L/C:



\_\_\_\_\_  
AUTHORISED SIGNATURE (S) OF BENEFICIARY:

\_\_\_\_\_  
SIGNATURE AUTHENTICATED BY:

(BANK OR NOTARY AUTHORIZED SIGNATURE NAME AND TITLE):

ORIGINAL

This is Exhibit “C” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026



## Articles of Amalgamation for an Alberta Corporation

Public (when completed)

*Business Corporations Act*  
Sections 181 and 187

This information is collected, used, and may be publicly disclosed in accordance with s. 33(a,c), 39 (1)(a,c), and 40(1)(c,e,f) of the *Freedom of Information and Protection of Privacy Act*; the *Business Corporations Act*; and the *Common Business Number Act*. It is required for the purpose of issuing a certificate of amalgamation and assigning a Canada Revenue Agency business number to the amalgamated corporation. Questions can be directed to the Service Alberta Contact Centre at [cr@gov.ab.ca](mailto:cr@gov.ab.ca) or 780-427-7013 (toll-free 310-0000 within Alberta).

### 1. Name of Amalgamated Corporation

Woolsey Equities Inc.

### 2. The classes of shares, and any maximum number of shares that the corporation is authorized to issue:

See Schedule "C" attached.

### 3. Restrictions on share transfers (if any):

See Schedule "A" attached.

### 4. Number, or minimum and maximum number, of directors that the corporation may have:

Minimum 1. Maximum 7.

### 5. If the corporation is restricted FROM carrying on a certain business, or restricted TO carrying on a certain business, specify the restriction(s):

None.

### 6. Other rules or provisions (if any):

See Schedule "B" attached.

### 7. Amalgamating Corporations

Name	Corporate Access Number	Business Number
Woolsey Equities Inc.	2025679065	711333211
1946530 Alberta Ltd.	2019465307	741603096
2085797 Alberta Ltd.	2020857971	778677088
2168764 Alberta Ltd.	2021687641	712528512

Name	Corporate Access Number	Business Number <b>19</b>
2030221 Alberta Ltd.	2020302218	724447495

Name	Corporate Access Number	Business Number
Pioneer Skies Business Park Inc.	2023176940	787010149

Name	Corporate Access Number	Business Number
Sierra Winds Business Park Inc.	2024944577	771332814

Name	Corporate Access Number	Business Number
Redyor Investments Inc.	2021851916	714922473

**8. Authorized Representative/Authorized Signing Authority for the Corporation**

Woolsey	Matthew	
Last Name	First Name	Middle Name (optional)

Director		
Relationship to Corporation	Telephone Number (optional)	Email Address

2024-01-01
Date of Submission yyyy-mm-dd

DocuSigned by:  
  
 FD64F6796CA44C8...  
 Signature



This is Exhibit “**D**” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

**CORPORATE ACCESS NUMBER: 2025745783**

**Government  
of Alberta ■**

**BUSINESS CORPORATIONS ACT**

**CERTIFICATE  
OF  
AMALGAMATION**

**WOOLSEY EQUITIES INC.**  
IS THE RESULT OF AN AMALGAMATION FILED ON 2024/01/01.



This is Exhibit “E” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026



**Bank of Montreal**

250 Yonge St., 11th Floor  
 Toronto, ON M5B 2L7  
 Tel: 416 598-6112  
 Fax: 416 598-6076  
 SWIFT: BOFMCAT2

SIERRA WINDS BUSINESS PARK INC.,  
 #1600, 10303 JASPER AVENUE NW,  
 EDMONTON, AB T5J 3N6 Canada

October 09, 2024

Re: Our Irrevocable Standby Letter of Credit No.: BMT06972210S  
 Applicant: EASTERN MEAT SOLUTIONS INC

Dear Customer,

"THIS IS A NON-RENEWAL NOTICE.

We wish to inform you that our abovementioned Letter of Credit will not be renewed by us for an additional one-year period; therefore, it will expire at our counters on November 19, 2024.

Should you consent, however, to the cancellation of this Letter of Credit prior to its present expiration date, please return the original Letter of Credit instrument together with any subsequent amendment(s) directly to us to your complete discharge.

Should you need to make a claim under our Letter of Credit please ensure that your claim is presented to us no later than November 19, 2024.

APPLICANT:  
 EASTERN MEAT SOLUTIONS INC. ON BEHALF OF SIERRA REALTY CALGARY CORPORATION.

Unless otherwise instructed herein, all correspondence and enquiries regarding this transaction should be directed to our Customer Service Centre at the above address, telephone: 416-598-6112. Please indicate our reference number in all your correspondence or telephone enquiries.

Regards,

**NIRIKSH SHETTY**

Authorised Signature(s)

This is Exhibit “**F**” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



\_\_\_\_\_  
A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

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**From:** MacFarlane, Alex <AMacfarlane@blg.com>  
**Sent:** Saturday, October 12, 2024 12:05 PM  
**To:** D. J. Miller <DJMiller@tgf.ca>; Rebecca Kennedy <Rkennedy@tgf.ca>  
**Cc:** Shurabi Srikaruna <SSrikaruna@tgf.ca>; Adam Driedger <ADriedger@tgf.ca>; McGrath, Kevin A. <KMcGrath@blg.com>; Murray, Tiffany <TMurray@blg.com>  
**Subject:** RE: Eastern Meats / Sierra - Letter of Credit

D.J./ Rebecca, we trust that you are enjoying the Thanksgiving long weekend. We have now had an opportunity to review your email below with BMO.

First, it is important to note that the Standby Letter of Credit issued by BMO (the “**EMS LC**”) (attached) at the request of Eastern Meat Solutions (“**EMS**”) in order to secure EMS’ obligations under a lease with Sierra Winds Business Park Inc. ( the “**Beneficiary**”) is subject to the International Standby Practices 1998 (“**ISP98**”), which are also attached for your reference.

We draw your attention to Rule 1.06 of the ISP98 (**Nature of Standbys**) and in particular Rule 1.06 (a), (b) and (e) which specifically provide as follows:

- (a) A standby is an irrevocable, independent, documentary, and binding undertaking when issued and need not so state.
- (b) Because a standby is irrevocable, an issuer's obligations under a standby cannot be amended or cancelled by the issuer except as provided in the standby or as consented to by the person against whom the amendment or cancellation is asserted.
- (e) Because a standby or amendment is binding when issued, it is enforceable against an issuer whether or not the applicant authorized its issuance, the issuer received a fee, or the beneficiary received or relied on the standby or the amendment.

Additionally, Rule 2.03 provides that: **Conditions to Issuance:** A standby is issued when it leaves an issuer's control unless it clearly specifies that it is not then "issued" or "enforceable". Statements that a standby is not "available", "operative", "effective", or the like do not affect its irrevocable and binding nature at the time it leaves the issuer's control.

Second, as you will note the EMS LC specifically provides as follows:

**It is a condition of this Letter of Credit that it shall be deemed to be automatically extended without amendment for One Year from the present or any future expiry date hereof, unless at least Thirty (30) Days prior to such expiry date, we send you notice in writing by registered mail or courier, that we elect not to consider this Standby Letter of Credit to be renewable for an additional period.**

Third, it is the Bank's position that an LC is considered "active" and that the Bank is bound by its terms the moment the LC leaves the Bank's counters – regardless of whether it is delivered to the Applicant or Beneficiary.

Accordingly, BMO remains of the view that is contractually obligated to issue to the Beneficiary the Notice of Non-Renewal.

Best regards.

Alex

### Alex MacFarlane

Partner, National Co-Chair of Insolvency and Restructuring Group

T 416.367.6305 | C 416 200 6320 | [AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

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**From:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>

**Sent:** Thursday, October 10, 2024 10:35 AM

**To:** MacFarlane, Alex <[AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)>; McGrath, Kevin A. <[KMcGrath@blg.com](mailto:KMcGrath@blg.com)>

**Cc:** Rebecca Kennedy <[Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca)>; Shurabi Srikaruna <[SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca)>; Adam Driedger <[ADriedger@tgf.ca](mailto:ADriedger@tgf.ca)>

**Subject:** Eastern Meats / Sierra - Letter of Credit

[External / Externe]

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Alex and Kevin:

During our call last Thursday, you asked if we had any research to support the position we were taking in respect of the letter of credit – that is, that the beneficiary did not acquire any rights under the letter of credit and therefore was not required or entitled to receive notice of any non-renewal or return for cancellation of the letter of credit.

We can advise that we have reviewed the most trusted resources available on the issue of letters of credit, each of which state that if a beneficiary is unaware of the letter of credit's existence, they do not acquire rights under it.

In *Letters of Credit: The Law and Current Practice* (Lazar Sarna), the author states that "A contract between the issuing bank and the beneficiary comes into existence when the existence of the irrevocable letter of credit is **communicated to the beneficiary**" (§[3:40](#)).

In *Chitty on Contracts*, the author states that “where a banker issues (or confirms) an irrevocable credit, the generally held commercial view is that the banker's promise to the beneficiary is binding as soon as it is communicated to the beneficiary, and before the latter has acted on it in any way. If, as seems probable, this view also represents the law, it constitutes a clear exception to the doctrine of consideration.” (excerpt of book attached, and [link here](#) to the book).

We have double checked with our client, who has confirmed that the beneficiary was **never** made aware of the issuance of the letter of credit. If the Bank would like to receive a Statutory Declaration from our client on that point, we can arrange for same.

Please advise if this addresses the issue we discussed, such that the Bank will accept the original Letter of Credit for immediate cancellation, as requested by the borrower. We have the original Letter of Credit ready to be delivered to your office. Given the timing, we would appreciate hearing from you as soon as possible.

Thank you,

D.J.



D. J. Miller | | [DJMiller@tgf.ca](mailto:DJMiller@tgf.ca) | Direct Line +1 416 304-0559 | | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)

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INSTITUTE OF INTERNATIONAL BANKING LAW & PRACTICE, INC.

3 3993 00127 4403



Borden Ladner Gervais LLP

# International Standby Practices ISP98

OF  
1958  
1655  
1998  
EMC  
.2



International Chamber of Commerce

*the world business organization*

**The International Standby Practices – ISP98**

were approved by the ICC Commission on Banking Technique and Practice on 6 April 1998. They are being issued as ICC publication N°590.

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## FOREWORD

*By Maria Livanos Cattai, Secretary General of ICC*

I take great pleasure in introducing the publication of the International Standby Practices by the ICC.

ISP98 embodies the commitment of ICC, through its Commission on Banking Technique and Practice, to provide global leadership in the formulation of standard banking practice for letters of credit and related independent undertakings such as standby letters of credit. In the tradition of ICC's *Uniform Customs and Practice for Documentary Credits (UCP)*, which is recognized worldwide as the code of practice governing commercial letters of credit, endorsement of the ISP98 by ICC assures that these rules will assume a global character as well.

As standbys came into their own under the UCP, it nevertheless became clear that issues of practice had emerged which required different solutions than those provided by the UCP. ISP98, in a sense, is an evolutionary product of the application of the UCP to standbys, as can be seen in the similarities between the two sets of rules. It is important to note that standbys can still be issued subject to UCP, if the parties determine it is their wish to do so.

It is also significant that ICC has joined hands with the Institute of International Banking Law and Practice in the development of ISP98. The rules, originally developed over several years by the Institute and all segments of the international standby community, benefited from the input of an ICC Working Party, chaired by the Banking Commission's Technical Adviser, Gary Collyer, which reviewed and made suggestions concerning the rules during the last several months of their development. The result, we are pleased to say, reflects many of ICC's concerns and represents the output of a productive partnership formed to provide a workable and realistic set of rules for the users of standbys worldwide.

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**CONTENTS**

FOREWORD .....	3
PREFACE .....	5
PROLOGUE .....	11
RULE 1: General Provisions .....	13
RULE 2: Obligations .....	22
RULE 3: Presentation .....	26
RULE 4: Examination .....	33
RULE 5: Notice, Preclusion, and Disposition of Documents .....	41
RULE 6: Transfer, Assignment, and Transfer by Operation of Law .....	45
RULE 7: Cancellation .....	51
RULE 8: Reimbursement Obligations .....	52
RULE 9: Timing .....	54
RULE 10: Syndication / Participation .....	55

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**APPENDICES**

Index .....	56
Acknowledgments .....	69
The ICC at a glance .....	70
Selected ICC publications .....	71
Institute of International Banking Law and Practice, Inc. ....	74

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## PREFACE

The International Standby Practices (ISP98) reflects generally accepted practice, custom, and usage of standby letters of credit. It provides separate rules for standby letters of credit in the same sense that the Uniform Customs and Practice for Documentary Credits (UCP) and the Uniform Rules for Demand Guarantees (URDG) do for commercial letters of credit and independent bank guarantees.

The formulation of standby letter of credit practices in separate rules evidences the maturity and importance of this financial product. The amounts outstanding of standbys greatly exceed the outstanding amounts of commercial letters of credit. While the standby is associated with the United States where it originated and where it is most widely used, it is truly an international product. Non-U.S. bank outstandings have exceeded those of U.S. banks in the United States alone. Moreover, the standby is used increasingly throughout the world.

Standbys are issued to support payment, when due or after default, of obligations based on money loaned or advanced, or upon the occurrence or non-occurrence of another contingency.

For convenience, standbys are commonly classified descriptively (and without operative significance in the application of these Rules) based on their function in the underlying transaction or other factors not necessarily related to the terms and conditions of the standby itself. For example:

- A "Performance Standby" supports an obligation to perform other than to pay money including for the purpose of covering losses arising from a default of the applicant in completion of the underlying transactions.
- An "Advance Payment Standby" supports an obligation to account for an advance payment made by the beneficiary to the applicant.

- A "Bid Bond/Tender Bond Standby" supports an obligation of the applicant to execute a contract if the applicant is awarded a bid.
- A "Counter Standby" supports the issuance of a separate standby or other undertaking by the beneficiary of the counter standby.
- A "Financial Standby" supports an obligation to pay money, including any instrument evidencing an obligation to repay borrowed money.
- A "Direct Pay Standby" supports payment when due of an underlying payment obligation typically in connection with a financial standby without regard to a default.
- An "Insurance Standby" supports an insurance or reinsurance obligation of the applicant.
- A "Commercial Standby" supports the obligations of an applicant to pay for goods or services in the event of non-payment by other methods.

In the past, many standbys have been issued subject to the UCP even though it was intended for commercial letters of credit. The UCP reinforced the independence and documentary character of the standby. It also provided standards for examination and notice of dishonor and a basis to resist market pressures to embrace troublesome practices such as the issuance of standbys without expiration dates.

Despite these important contributions, it has long been apparent that the UCP was not fully applicable nor appropriate for standbys, as is recognized in UCP 500 Article 1 which provides that it applies to the extent to which they may be applicable. Even the least complex standbys (those calling for presentation of a draft only) pose problems not addressed by the UCP. More complex standbys (those involving longer terms or automatic extensions, transfer on demand, requests that the beneficiary issue its own undertaking to another, and the like) require more specialized rules of practice. The ISP fills these needs.

The ISP differs from the UCP in style and approach because it must receive acceptance not only from

bankers and merchants, but also from a broader range of those actively involved in standby law and practice corporate treasurers and credit managers, rating agencies, government agencies and regulators, and indenture trustees as well as their counsel. Because standbys are often intended to be available in the event of disputes or applicant insolvency, their texts are subject to a degree of scrutiny not encountered in the commercial letter of credit context. As a result, the ISP is also written to provide guidance to lawyers and judges in the interpretation of standby practice.

Differences in substance result either from different practices, different problems, or the need for more precision. In addition, the ISP proposes basic definitions should the standby permit or require presentation of documents by electronic means. Since standbys infrequently require presentation of negotiable documents, standby practice is currently more conducive to electronic presentations, and the ISP provides definitions and rules encouraging such presentations. The development of S.W.I.F.T. message types for the ISP is anticipated.

The ISP, like the UCP for commercial letters of credit, simplifies, standardizes, and streamlines the drafting of standbys, and provides clear and widely accepted answers to common problems. There are basic similarities with the UCP because standby and commercial practices are fundamentally the same. Even where the rules overlap, however, the ISP is more precise, stating the intent implied in the UCP rule, in order to make the standby more dependable when a drawing or honor is questioned.

Like the UCP and the URDG, the ISP will apply to any independent undertaking issued subject to it. This approach avoids the impractical and often impossible task of identifying and distinguishing standbys from independent guarantees and, in many cases, commercial letters of credit. The choice of which set of rules to select is, therefore, left to the parties as it should be. One may well choose to use the ISP for certain types of standbys, the UCP for others, and the URDG for still others. While the ISP is not intended to be used for

dependent undertakings such as accessory guarantees and insurance contracts, it may be useful in some situations in indicating that a particular undertaking which might otherwise be treated as dependent under local law is intended to be independent.

For the ISP to apply to a standby, an undertaking should be made subject to these Rules by including language such as (but not limited to):

- This undertaking is issued subject to the International Standby Practices 1998.

or

- Subject to ISP98.

Although the ISP can be varied by the text of a standby, it provides neutral rules acceptable in the majority of situations and a useful starting point for negotiations in other situations. It will save parties (including banks that issue, confirm, or are beneficiaries of standbys) considerable time and expense in negotiating and drafting standby terms.

The ISP is designed to be compatible with the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (which represents a useful and practical formulation of basic standby and independent guarantee law) and also with local law, whether statutory or judicial, and to embody standby letter of credit practice under that law. If these rules conflict with mandatory law on issues such as assignment of proceeds or transfer by operation of law, applicable law will, of course, control. Nonetheless, most of these issues are rarely addressed by local law and progressive commercial law will often look to the practice as recorded in the ISP for guidance in such situations, especially with respect to cross border undertakings. As a result, it is expected that the ISP will complement local law rather than conflict with it.

The ISP is intended to be used also in arbitration as well as judicial proceedings (such as the expert based letter of credit arbitration system developed by the International Center for Letter of Credit Arbitration (ICLOCA) Rules or general commercial ICC arbitration) or with alternative methods of dispute resolution. Such a choice should be

made expressly and with appropriate detail. At a minimum, it can be made in connection with the clause relating to ISP98 - e.g. This undertaking is issued subject to ISP98, and all disputes arising out of it or related to it are subject to arbitration under ICLOCA Rules (1996).

Although translations of the ISP into other languages are envisioned and will be monitored for integrity, the English text is the official text of the ISP in the event of disputes.

The ISP is the product of the work of the ISP Working Group under the auspices of the Institute of International Banking Law & Practice, Inc. which interacted with hundreds of persons over a five year period, and has benefitted from comments received from individuals, banks, and national and international associations. In particular, the participation of the International Financial Services Association (formerly the USCIB) and the Ad Hoc Working Group under the chairmanship of Gary Collyer (which led to its endorsement by the ICC Banking Commission) is gratefully recognized. In addition, the sponsorship and support of Citibank N.A., The Chase Manhattan Bank, ABN-AMRO, Baker & McKenzie, and the National Law Center for Inter-American Free Trade is acknowledged. Perhaps the greatest significance of the ISP is that its creation marks a new chapter in the collaboration between the international banking operations community and the legal community at an international level. In this respect, the active role played in this process by the Secretariat of the United Nations Commission on International Trade Law has been invaluable.

The ISP is drafted as a set of rules intended for use in daily practice. It is not intended to provide introductory information on standbys and their uses. While it is recognized that specific rules would benefit from explanatory comments, such comments are not appended to the ISP because the resulting work would be too cumbersome for daily use. Instead, introductory materials and Official Comments are available in the *Official Commentary on the International Standby Practices (ISP98)*. For further information on support materials and developments on the ISP and to pose queries, consult the ISP98 website: [www.ISP98.com](http://www.ISP98.com).

To address inevitable questions, to provide for official interpretation of the rules, and to assure their proper evolution, the Institute of International Banking Law & Practice, Inc. has created a Council on International Standby Practices which is representative of the several constituencies which have contributed to the ISP and has charged it with the task of maintaining the integrity of the ISP in cooperation with the Institute, the ICC Banking Commission, the IFSA, and various supporting organizations.

Professor James E. Byrne  
Director,  
Institute of International Banking Law & Practice, Inc.;  
Chair & Reporter,  
ISP Working Group

James G. Barnes  
Baker & McKenzie;  
Vice Chair,  
ISP Working Group

Gary W. Collyer  
Vice President,  
Citibank, N.A.;  
Chair,  
ICC Ad Hoc Working Group &  
Technical Adviser to the ICC Banking Commission

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## PROLOGUE

by *Dr. Gerold Herrmann, Secretary, United Nations Commission on International Trade Law (UNCITRAL)*

It was an extremely interesting and enriching experience for me to assist in drafting ISP98. This participation allowed me to witness (and now bear witness to) the very thorough and pragmatic drafting process in a superbly selected group, with representatives of all interested sectors actively involved in standby letter of credit practice such as: bankers, especially those responsible for letter of credit operations and global trade transactions, bank counsel, attorneys, academics, regulators, government officials, corporate treasurers, and likely influential beneficiaries. The treasure trove of experience and expertise and the diversity of interests and perspectives proved invaluable in determining— as was continuously done by examining concrete practical examples— whether on a given issue an operational rule would be desirable and useful and, if so, which solution would work best and reflect good practice.

Continued participation in the preparatory work has also convinced me— as, I am sure, it would have anyone else— of the special characteristics of standbys at the operational level of practical detail and usage. Their special features, in my view, not only justify but also necessitate special contractual rules designed for standbys. As the constant comparison with the UCP clearly revealed, quite a few UCP Articles are inappropriate for standbys and quite a few issues of paramount importance in standby practice are not addressed at all in the UCP. While a similar disparity in practice exists between the standby and the independent guarantee (the bank or demand guarantee European style), this seems particularly, if not exclusively, true for those types of actual use (e.g. financial standby, direct-pay standby) hitherto found only extremely rarely in guarantee practice. For this and other reasons, including firmness of the undertaking, I would not be surprised to see not only standbys but also some demand guarantees issued subject to ISP98.

For a professional unifier of law, participation in the preparatory work was particularly satisfying because of its interconnection with other harmonisation and reform efforts. In addition to the concordance with revised Article 5 UCC (the letter-of-credit law of the homeland of the standby) and the similarly close contact (and personal overlap) with the 1993 UCP revision task force, I am referring in particular to UNCITRAL's work which culminated in the adoption in 1995 by the General Assembly of the "United Nations Convention on Independent Guarantees and Stand-by Letters of Credit." The idea of preparing special operational rules for standbys was born during the extensive debates comparing national laws as well as the two instruments to be married by that Convention. Since bride and groom were presented there in all facets and critically scrutinized by their future in-laws, UNCITRAL's *travaux preparatoires* make for highly informative reading (as will future abstracts of court decisions to be published in UNCITRAL's case collection system called CLOUT; homepage: [www.un.or.at/uncitral](http://www.un.or.at/uncitral)). It was gratifying to see the group preparing ISP98 refer continuously to the UNCITRAL Convention in order to ensure complete consistency. I must admit to special gratification by overhearing one of the world's leading letter of credit expert's remark to his banking colleague: "The more I look at this UN Convention, the more I really like it."

The above coordination or cooperation in the universal harmonisation and modernization efforts is welcome and in fact crucial because of the (often neglected or ignored) interdependence between the two very different levels of legal norms: the contractual level, where such sets of rules like ISP98, UCP 500, or URDG become effective by agreement of the individual parties, and the statutory level, where internationally elaborated law like the UN Convention or domestic law (e.g. Art. 5 UCC) recognise and give full effect to the exercise of that party autonomy and regulate certain issues that can effectively be settled only at that level (e.g. standards of fraud exception, injunctive relief and other court matters). Therefore, ISP98 and the Convention supplement each other in an ideal manner and together lay the necessary basis for a smooth functioning of standby practice worldwide.

**RULE 1****GENERAL PROVISIONS**

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**Scope, Application, Definitions,  
and Interpretation of These Rules****1.01 Scope and Application**

- a. These Rules are intended to be applied to standby letters of credit (including performance, financial, and direct pay standby letters of credit).
- b. A standby letter of credit or other similar undertaking, however named or described, whether for domestic or international use, may be made subject to these Rules by express reference to them.
- c. An undertaking subject to these Rules may expressly modify or exclude their application.
- d. An undertaking subject to these Rules is hereinafter referred to as a “**standby**”.

**1.02 Relationship to Law and Other Rules**

- a. These Rules supplement the applicable law to the extent not prohibited by that law.
- b. These Rules supersede conflicting provisions in any other rules of practice to which a standby letter of credit is also made subject.

**1.03 Interpretative Principles**

These Rules shall be interpreted as mercantile usage with regard for:

- a. integrity of standbys as reliable and efficient undertakings to pay;
- b. practice and terminology of banks and businesses in day-to-day transactions;

- c. consistency within the worldwide system of banking operations and commerce; and
- d. worldwide uniformity in their interpretation and application.

#### **1.04 Effect of the Rules**

Unless the context otherwise requires, or unless expressly modified or excluded, these Rules apply as terms and conditions incorporated into a standby, confirmation, advice, nomination, amendment, transfer, request for issuance, or other agreement of:

- i. the issuer;
- ii. the beneficiary to the extent it uses the standby;
- iii. any advisor;
- iv. any confirmer;
- v. any person nominated in the standby who acts or agrees to act; and
- vi. the applicant who authorises issuance of the standby or otherwise agrees to the application of these Rules.

#### **1.05 Exclusion of Matters Related to Due Issuance and Fraudulent or Abusive Drawing**

These Rules do not define or otherwise provide for:

- a. power or authority to issue a standby;
- b. formal requirements for execution of a standby (e.g. a signed writing); or
- c. defenses to honour based on fraud, abuse, or similar matters.

These matters are left to applicable law.

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## General Principles

### 1.06 Nature of Standbys

- a. A standby is an irrevocable, independent, documentary, and binding undertaking when issued and need not so state.
- b. Because a standby is irrevocable, an issuer's obligations under a standby cannot be amended or cancelled by the issuer except as provided in the standby or as consented to by the person against whom the amendment or cancellation is asserted.
- c. Because a standby is independent, the enforceability of an issuer's obligations under a standby does not depend on:
  - i. the issuer's right or ability to obtain reimbursement from the applicant;
  - ii. the beneficiary's right to obtain payment from the applicant;
  - iii. a reference in the standby to any reimbursement agreement or underlying transaction; or
  - iv. the issuer's knowledge of performance or breach of any reimbursement agreement or underlying transaction.
- d. Because a standby is documentary, an issuer's obligations depend on the presentation of documents and an examination of required documents on their face.
- e. Because a standby or amendment is binding when issued, it is enforceable against an issuer whether or not the applicant authorised its issuance, the issuer received a fee, or the beneficiary received or relied on the standby or the amendment.

### 1.07 Independence of the Issuer-Beneficiary Relationship

An issuer's obligations toward the beneficiary are not affected by the issuer's rights and obligations toward the applicant under any applicable agreement, practice, or law.

### 1.08 Limits to Responsibilities

An issuer is not responsible for:

- a. performance or breach of any underlying transaction;
- b. accuracy, genuineness, or effect of any document presented under the standby;
- c. action or omission of others even if the other person is chosen by the issuer or nominated person; or
- d. observance of law or practice other than that chosen in the standby or applicable at the place of issuance.

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## Terminology

### 1.09 Defined Terms

In addition to the meanings given in standard banking practice and applicable law, the following terms have or include the meanings indicated below:

#### a. Definitions

**"Applicant"** is a person who applies for issuance of a standby or for whose account it is issued, and includes (i) a person applying in its own name but for the account of another person or (ii) an issuer acting for its own account.

**"Beneficiary"** is a named person who is entitled to draw under a standby. See Rule 1.11(c)(ii).

**“Business Day”** means a day on which the place of business at which the relevant act is to be performed is regularly open; and **“Banking Day”** means a day on which the relevant bank is regularly open at the place at which the relevant act is to be performed.

**“Confirmer”** is a person who, upon an issuer’s nomination to do so, adds to the issuer’s undertaking its own undertaking to honour a standby. See Rule 1.11(c)(i).

**“Demand”** means, depending on the context, either a request to honour a standby or a document that makes such request.

**“Document”** means a draft, demand, document of title, investment security, invoice, certificate of default, or any other representation of fact, law, right, or opinion, that upon presentation (whether in a paper or electronic medium), is capable of being examined for compliance with the terms and conditions of a standby.

**“Drawing”** means, depending on the context, either a demand presented or a demand honoured.

**“Expiration Date”** means the latest day for a complying presentation provided in a standby.

**“Person”** includes a natural person, partnership, corporation, limited liability company, government agency, bank, trustee, and any other legal or commercial association or entity.

**“Presentation”** means, depending on the context, either the act of delivering documents for examination under a standby or the documents so delivered.

**“Presenter”** is a person who makes a presentation as or on behalf of a beneficiary or nominated person.

**“Signature”** includes any symbol executed or adopted by a person with a present intent to authenticate a document.

## b. Cross References

- “**Amendment**” - Rule 2.06
- “**Advice**” - Rule 2.05
- “**Approximately**” (“**About**” or “**Circa**”) - Rule 3.08(f)
- “**Assignment of Proceeds**” - Rule 6.06
- “**Automatic Amendment**” - Rule 2.06(a)
- “**Copy**” - Rule 4.15(d)
- “**Cover Instructions**” - Rule 5.08
- “**Honour**” - Rule 2.01
- “**Issuer**” - Rule 2.01
- “**Multiple Presentations**” - Rule 3.08(b)
- “**Nominated Person**” - Rule 2.04
- “**Non-documentary Conditions**” - Rule 4.11
- “**Original**” - Rule 4.15(b) & (c)
- “**Partial Drawing**” - Rule 3.08(a)
- “**Standby**” - Rule 1.01(d)
- “**Transfer**” - Rule 6.01
- “**Transferee Beneficiary**” - Rule 1.11(c)(ii)
- “**Transfer by Operation of Law**” - Rule 6.11

## c. Electronic Presentations

The following terms in a standby providing for or permitting electronic presentation shall have the following meanings unless the context otherwise requires:

“**Electronic Record**” means:

- i. a record (information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form);
- ii. communicated by electronic means to a system for receiving, storing, re-transmitting, or otherwise processing information (data, text, images, sounds, codes, computer programs, software, databases, and the like); and

- iii. capable of being authenticated and then examined for compliance with the terms and conditions of the standby.

“**Authenticate**” means to verify an electronic record by generally accepted procedure or methodology in commercial practice:

- i. the identity of a sender or source, and
- ii. the integrity of or errors in the transmission of information content.

The criteria for assessing the integrity of information in an electronic record is whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage, and display.

“**Electronic signature**” means letters, characters, numbers, or other symbols in electronic form, attached to or logically associated with an electronic record that are executed or adopted by a party with present intent to authenticate an electronic record.

“**Receipt**” occurs when:

- i. an electronic record enters in a form capable of being processed by the information system designated in the standby, or
- ii. an issuer retrieves an electronic record sent to an information system other than that designated by the issuer.

#### 1.10 Redundant or Otherwise Undesirable Terms

- a. A standby should not or need not state that it is:
  - i. **unconditional** or **abstract** (if it does, it signifies merely that payment under it is conditioned solely on presentation of specified documents);
  - ii. **absolute** (if it does, it signifies merely that it is irrevocable);
  - iii. **primary** (if it does, it signifies merely that it is the independent obligation of the issuer);
  - iv. **payable from the issuer's own funds** (if it does, it signifies merely that payment under it does

not depend on the availability of applicant funds and is made to satisfy the issuer's own independent obligation);

- v. **clean** or **payable on demand** (if it does, it signifies merely that it is payable upon presentation of a written demand or other documents specified in the standby).
- b. A standby should not use the term **"and/or"** (if it does it means either or both).
- c. The following terms have no single accepted meaning:
  - i. and shall be disregarded:
    - "callable"**,
    - "divisible"**,
    - "fractionable"**,
    - "indivisible"**, and
    - "transmissible"**,
  - ii. and shall be disregarded unless their context gives them meaning:
    - "assignable"**,
    - "evergreen"**,
    - "reinstate"**, and
    - "revolving"**.

### 1.11 Interpretation of These Rules

- a. These Rules, are to be interpreted in the context of applicable standard practice.
- b. In these Rules, **"standby letter of credit"** refers to the type of independent undertaking for which these Rules were intended, whereas **"standby"** refers to an undertaking subjected to these Rules.
- c. Unless the context otherwise requires:
  - i. **"Issuer"** includes a **"confirmer"** as if the confirmer were a separate issuer and its confirmation were a separate standby issued for the account of the issuer;

- ii. **“Beneficiary”** includes a person to whom the named beneficiary has effectively transferred drawing rights (**“transferee beneficiary”**);
  - iii. **“Including”** means “including but not limited to”;
  - iv. **“A or B”** means “A or B or both”; **“either A or B”** means “A or B, but not both”; and **“A and B”** means “both A and B”;
  - v. Words in the singular number include the plural, and in the plural include the singular; and
  - vi. Words of the neuter gender include any gender.
- d.
- i. Use of the phrase **“unless a standby otherwise states”** or the like in a rule emphasizes that the text of the standby controls over the rule;
  - ii. Absence of such a phrase in other rules does not imply that other rules have priority over the text of the standby;
  - iii. Addition of the term **“expressly”** or **“clearly”** to the phrase “unless a standby otherwise states” or the like emphasizes that the rule should be excluded or modified only by wording in the standby that is specific and unambiguous; and
  - iv. While the effect of all of these Rules may be varied by the text of the standby, variations of the effect of some of these Rules may disqualify the standby as an independent undertaking under applicable law.
- e.
- The phrase **“stated in the standby”** or the like refers to the actual text of a standby (whether as issued or effectively amended) whereas the phrase **“provided in the standby”** or the like refers to both the text of the standby and these Rules as incorporated.

**RULE 2****OBLIGATIONS**

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**2.01 Undertaking to Honour by Issuer and Any Confirmer to Beneficiary**

- a. An issuer undertakes to the beneficiary to honour a presentation that appears on its face to comply with the terms and conditions of the standby in accordance with these Rules supplemented by standard standby practice.
- b. An issuer honours a complying presentation made to it by paying the amount demanded of it at sight, unless the standby provides for honour:
  - i. by acceptance of a draft drawn by the beneficiary on the issuer, in which case the issuer honours by:
    - (a) timely accepting the draft; and
    - (b) thereafter paying the holder of the draft on presentation of the accepted draft on or after its maturity.
  - ii. by deferred payment of a demand made by the beneficiary on the issuer, in which case the issuer honours by:
    - (a) timely incurring a deferred payment obligation; and
    - (b) thereafter paying at maturity.
  - iii. by negotiation, in which case the issuer honours by paying the amount demanded at sight without recourse.
- c. An issuer acts in a timely manner if it pays at sight, accepts a draft, or undertakes a deferred payment obligation (or if it gives notice of dishonour) within the time permitted for examining the presentation and giving notice of dishonour.
- d. i. A confirmer undertakes to honour a complying presentation made to it by paying the amount demanded of it at sight or, if the standby so states, by another method of honour consistent with the issuer's undertaking.

- ii. If the confirmation permits presentation to the issuer, then the confirmer undertakes also to honour upon the issuer's wrongful dishonour by performing as if the presentation had been made to the confirmer.
  - iii. If the standby permits presentation to the confirmer, then the issuer undertakes also to honour upon the confirmer's wrongful dishonour by performing as if the presentation had been made to the issuer.
- e. An issuer honours by paying in immediately available funds in the currency designated in the standby unless the standby states it is payable by:
- i. payment of a monetary unit of account, in which case the undertaking is to pay in that unit of account; or
  - ii. delivery of other items of value, in which case the undertaking is to deliver those items.

## **2.02 Obligation of Different Branches, Agencies, or Other Offices**

For the purposes of these Rules, an issuer's branch, agency, or other office acting or undertaking to act under a standby in a capacity other than as issuer is obligated in that capacity only and shall be treated as a different person.

## **2.03 Conditions to Issuance**

A standby is issued when it leaves an issuer's control unless it clearly specifies that it is not then "issued" or "enforceable". Statements that a standby is not "available", "operative", "effective", or the like do not affect its irrevocable and binding nature at the time it leaves the issuer's control.

## **2.04 Nomination**

- a. A standby may nominate a person to advise, receive a presentation, effect a transfer, confirm, pay, negotiate, incur a deferred payment obligation, or accept a draft.

- b. Nomination does not obligate the nominated person to act except to the extent that the nominated person undertakes to act.
- c. A nominated person is not authorised to bind the person making the nomination.

## 2.05 Advice of Standby or Amendment

- a. Unless an advice states otherwise, it signifies that:
  - i. the advisor has checked the apparent authenticity of the advised message in accordance with standard letter of credit practice; and
  - ii. the advice accurately reflects what has been received.
- b. A person who is requested to advise a standby and decides not to do so should notify the requesting party.

## 2.06 When an Amendment is Authorised and Binding

- a. If a standby expressly states that it is subject to "**automatic amendment**" by an increase or decrease in the amount available, an extension of the expiration date, or the like, the amendment is effective automatically without any further notification or consent beyond that expressly provided for in the standby. (Such an amendment may also be referred to as becoming effective "**without amendment**".)
- b. If there is no provision for automatic amendment, an amendment binds:
  - i. the issuer when it leaves the issuer's control; and
  - ii. the confirmer when it leaves the confirmer's control, unless the confirmer indicates that it does not confirm the amendment.
- c. If there is no provision for automatic amendment:
  - i. the beneficiary must consent to the amendment for it to be binding;

- ii. the beneficiary's consent must be made by an express communication to the person advising the amendment unless the beneficiary presents documents which comply with the standby as amended and which would not comply with the standby prior to such amendment; and
  - iii. an amendment does not require the applicant's consent to be binding on the issuer, the confirmer, or the beneficiary.
- d. Consent to only part of an amendment is a rejection of the entire amendment.

### 2.07 **Routing of Amendments**

- a. An issuer using another person to advise a standby must advise all amendments to that person.
- b. An amendment or cancellation of a standby does not affect the issuer's obligation to a nominated person that has acted within the scope of its nomination before receipt of notice of the amendment or cancellation.
- c. Non-extension of an automatically extendable (renewable) standby does not affect an issuer's obligation to a nominated person who has acted within the scope of its nomination before receipt of a notice of non-extension.

**RULE 3****PRESENTATION**

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**3.01 Complying Presentation Under a Standby**

A standby should indicate the time, place and location within that place, person to whom, and medium in which presentation should be made. If so, presentation must be so made in order to comply. To the extent that a standby does not so indicate, presentation must be made in accordance with these Rules in order to be complying.

**3.02 What Constitutes a Presentation**

The receipt of a document required by and presented under a standby constitutes a presentation requiring examination for compliance with the terms and conditions of the standby even if not all of the required documents have been presented.

**3.03 Identification of Standby**

- a. A presentation must identify the standby under which the presentation is made.
- b. A presentation may identify the standby by stating the complete reference number of the standby and the name and location of the issuer or by attaching the original or a copy of the standby.
- c. If the issuer cannot determine from the face of a document received that it should be processed under a standby or cannot identify the standby to which it relates, presentation is deemed to have been made on the date of identification.

**3.04 Where and to Whom Complying Presentation Made**

- a. To comply, a presentation must be made at the place and any location at that place indicated in the standby or provided in these Rules.

- b. If no place of presentation to the issuer is indicated in the standby, presentation to the issuer must be made at the place of business from which the standby was issued.
- c. If a standby is confirmed, but no place for presentation is indicated in the confirmation, presentation for the purpose of obligating the confirmer (and the issuer) must be made at the place of business of the confirmer from which the confirmation was issued or to the issuer.
- d. If no location at a place of presentation is indicated (such as department, floor, room, station, mail stop, post office box, or other location), presentation may be made to:
  - i. the general postal address indicated in the standby;
  - ii. any location at the place designated to receive deliveries of mail or documents; or
  - iii. any person at the place of presentation actually or apparently authorised to receive it.

### **3.05 When Timely Presentation Made**

- a. A presentation is timely if made at any time after issuance and before expiry on the expiration date.
- b. A presentation made after the close of business at the place of presentation is deemed to have been made on the next business day.

### **3.06 Complying Medium of Presentation**

- a. To comply, a document must be presented in the medium indicated in the standby.
- b. Where no medium is indicated, to comply a document must be presented as a paper document, unless only a demand is required, in which case:
  - i. a demand that is presented via S.W.I.F.T., tested telex, or other similar authenticated means by a beneficiary that is a S.W.I.F.T. participant or a bank complies; otherwise

- ii. a demand that is not presented as a paper document does not comply unless the issuer permits, in its sole discretion, the use of that medium.
- c. A document is not presented as a paper document if it is communicated by electronic means even if the issuer or nominated person receiving it generates a paper document from it.
- d. Where presentation in an electronic medium is indicated, to comply a document must be presented as an electronic record capable of being authenticated by the issuer or nominated person to whom it is presented.

### 3.07 Separateness of Each Presentation

- a. Making a non-complying presentation, withdrawing a presentation, or failing to make any one of a number of scheduled or permitted presentations does not waive or otherwise prejudice the right to make another timely presentation or a timely re-presentation whether or not the standby prohibits partial or multiple drawings or presentations.
- b. Wrongful dishonour of a complying presentation does not constitute dishonour of any other presentation under a standby or repudiation of the standby.
- c. Honour of a non-complying presentation, with or without notice of its non-compliance, does not waive requirements of a standby for other presentations.

### 3.08 Partial Drawing and Multiple Presentations; Amount of Drawings

- a. A presentation may be made for less than the full amount available ("**partial drawing**").
- b. More than one presentation ("**multiple presentations**") may be made.

- c. The statement "partial drawings prohibited" or a similar expression means that a presentation must be for the full amount available.
- d. The statement "multiple drawings prohibited" or a similar expression means that only one presentation may be made and honoured but that it may be for less than the full amount available.
- e. If a demand exceeds the amount available under the standby, the drawing is discrepant. Any document other than the demand stating an amount in excess of the amount demanded is not discrepant for that reason.
- f. Use of "**approximately**", "**about**", "**circa**", or a similar word permits a tolerance not to exceed 10% more or 10% less of the amount to which such word refers.

### 3.09 **Extend or Pay**

A beneficiary's request to extend the expiration date of the standby or, alternatively, to pay the amount available under it:

- a. is a presentation demanding payment under the standby, to be examined as such in accordance with these Rules; and
- b. implies that the beneficiary:
  - i. consents to the amendment to extend the expiry date to the date requested;
  - ii. requests the issuer to exercise its discretion to seek the approval of the applicant and to issue that amendment;
  - iii. upon issuance of that amendment, retracts its demand for payment; and
  - iv. consents to the maximum time available under these Rules for examination and notice of dishonour.

**3.10 No Notice of Receipt of Presentation**

An issuer is not required to notify the applicant of receipt of a presentation under the standby.

**3.11 Issuer Waiver and Applicant Consent to Waiver of Presentation Rules**

In addition to other discretionary provisions in a standby or these Rules, an issuer may, in its sole discretion, without notice to or consent of the applicant and without effect on the applicant's obligations to the issuer, waive

- a. the following Rules and any similar terms stated in the standby which are primarily for the issuer's benefit or operational convenience:
  - i. treatment of documents received, at the request of the presenter, as having been presented at a later date (Rule 3.02);
  - ii. identification of a presentation to the standby under which it is presented (Rule 3.03(a));
  - iii. where and to whom presentation is made (Rule 3.04(b), (c), and (d)), except the country of presentation stated in the standby; or
  - iv. treatment of a presentation made after the close of business as if it were made on the next business day (Rule 3.05(b)).
- b. the following Rule but not similar terms stated in the standby:
  - i. a required document dated after the date of its stated presentation (Rule 4.06); or
  - ii. the requirement that a document issued by the beneficiary be in the language of the standby (Rule 4.04).
- c. the following Rule relating to the operational integrity of the standby only in so far as the bank is in fact dealing with the true beneficiary:
  - acceptance of a demand in an electronic medium (Rule 3.06(b)).

Waiver by the confirmer requires the consent of the issuer with respect to paragraphs (b) and (c) of this Rule.

### **3.12 Original Standby Lost, Stolen, Mutilated, or Destroyed**

- a. If an original standby is lost, stolen, mutilated, or destroyed, the issuer need not replace it or waive any requirement that the original be presented under the standby.
- b. If the issuer agrees to replace an original standby or to waive a requirement for its presentation, it may provide a replacement or copy to the beneficiary without affecting the applicant's obligations to the issuer to reimburse, but, if it does so, the issuer must mark the replacement or copy as such. The issuer may, in its sole discretion, require indemnities satisfactory to it from the beneficiary and assurances from nominated persons that no payment has been made.

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## **Closure on Expiry Date**

### **3.13 Expiration Date on a Non-Business Day**

- a. If the last day for presentation stated in a standby (whether stated to be the expiration date or the date by which documents must be received) is not a business day of the issuer or nominated person where presentation is to be made, then presentation made there on the first following business day shall be deemed timely.
- b. A nominated person to whom such a presentation is made must so notify the issuer.

**3.14 Closure on a Business Day and Authorization of Another Reasonable Place for Presentation**

- a. If on the last business day for presentation the place for presentation stated in a standby is for any reason closed and presentation is not timely made because of the closure, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business, unless the standby otherwise provides.
- b. Upon or in anticipation of closure of the place of presentation, an issuer may authorise another reasonable place for presentation in the standby or in a communication received by the beneficiary. If it does so, then
  - i. presentation must be made at that reasonable place; and
  - ii. if the communication is received fewer than thirty calendar days before the last day for presentation and for that reason presentation is not timely made, the last day for presentation is automatically extended to the day occurring thirty calendar days after the last day for presentation.

**RULE 4****EXAMINATION**

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**4.01 Examination for Compliance**

- a. Demands for honour of a standby must comply with the terms and conditions of the standby.
- b. Whether a presentation appears to comply is determined by examining the presentation on its face against the terms and conditions stated in the standby as interpreted and supplemented by these Rules which are to be read in the context of standard standby practice.

**4.02 Non-Examination of Extraneous Documents**

Documents presented which are not required by the standby need not be examined and, in any event, shall be disregarded for purposes of determining compliance of the presentation. They may without responsibility be returned to the presenter or passed on with the other documents presented.

**4.03 Examination for Inconsistency**

An issuer or nominated person is required to examine documents for inconsistency with each other only to the extent provided in the standby.

**4.04 Language of Documents**

The language of all documents issued by the beneficiary is to be that of the standby.

**4.05 Issuer of Documents**

Any required document must be issued by the beneficiary unless the standby indicates that the document is to be issued by a third person or the document is of a type that standard standby practice requires to be issued by a third person.

#### 4.06 Date of Documents

The issuance date of a required document may be earlier but not later than the date of its presentation.

#### 4.07 Required Signature on a Document

- a. A required document need not be signed unless the standby indicates that the document must be signed or the document is of a type that standard standby practice requires be signed.
- b. A required signature may be made in any manner that corresponds to the medium in which the signed document is presented.
- c. Unless a standby specifies:
  - i. the name of a person who must sign a document, any signature or authentication will be regarded as a complying signature,
  - ii. the status of a person who must sign, no indication of status is necessary.
- d. If a standby specifies that a signature must be made by:
  - i. a named natural person without requiring that the signer's status be identified, a signature complies that appears to be that of the named person;
  - ii. a named legal person or government agency without identifying who is to sign on its behalf or its status, any signature complies that appears to have been made on behalf of the named legal person or government agency; or
  - iii. a named natural person, legal person, or government agency requiring the status of the signer be indicated, a signature complies which appears to be that of the named natural person, legal person, or government agency and indicates its status.

#### **4.08 Demand Document Implied**

If a standby does not specify any required document, it will still be deemed to require a documentary demand for payment.

#### **4.09 Identical Wording and Quotation Marks**

If a standby requires:

- a. a statement without specifying precise wording, then the wording in the document presented must appear to convey the same meaning as that required by the standby;
- b. specified wording by the use of quotation marks, blocked wording, or an attached exhibit or form, then typographical errors in spelling, punctuation, spacing, or the like that are apparent when read in context are not required to be duplicated and blank lines or spaces for data may be completed in any manner not inconsistent with the standby; or
- c. specified wording by the use of quotation marks, blocked wording, or an attached exhibit or form, and also provides that the specified wording be "exact" or "identical", then the wording in the documents presented, including typographical errors in spelling, punctuation, spacing and the like, as well as blank lines and spaces for data, must be exactly reproduced.

#### **4.10 Applicant Approval**

A standby should not specify that a required document be issued, signed, or counter-signed by the applicant. However, if the standby includes such a requirement, the issuer may not waive the requirement and is not responsible for the applicant's withholding of the document or signature.

#### **4.11 Non-Documentary Terms or Conditions**

- a. A standby term or condition which is non-documentary must be disregarded whether or not it affects the issuer's obligation to treat a presentation as complying or to treat the standby as issued, amended, or terminated.

- b. Terms or conditions are non-documentary if the standby does not require presentation of a document in which they are to be evidenced and if their fulfillment cannot be determined by the issuer from the issuer's own records or within the issuer's normal operations.
- c. Determinations from the issuer's own records or within the issuer's normal operations include determinations of:
  - i. when, where, and how documents are presented or otherwise delivered to the issuer;
  - ii. when, where, and how communications affecting the standby are sent or received by the issuer, beneficiary, or any nominated person;
  - iii. amounts transferred into or out of accounts with the issuer; and
  - iv. amounts determinable from a published index (e.g., if a standby provides for determining amounts of interest accruing according to published interest rates).
- d. An issuer need not re-compute a beneficiary's computations under a formula stated or referenced in a standby except to the extent that the standby so provides.

#### **4.12 Formality of Statements in Documents**

- a. A required statement need not be accompanied by a solemnity, officialization, or any other formality.
- b. If a standby provides for the addition of a formality to a required statement by the person making it without specifying form or content, the statement complies if it indicates that it was declared, averred, warranted, attested, sworn under oath, affirmed, certified, or the like.
- c. If a standby provides for a statement to be witnessed by another person without specifying form or content, the witnessed statement

complies if it appears to contain a signature of a person other than the beneficiary with an indication that the person is acting as a witness.

- d. If a standby provides for a statement to be counter-signed, legalized, visaed, or the like by a person other than the beneficiary acting in a governmental, judicial, corporate, or other representative capacity without specifying form or content, the statement complies if it contains the signature of a person other than the beneficiary and includes an indication of that person's representative capacity and the organization on whose behalf the person has acted.

#### **4.13 No Responsibility to Identify Beneficiary**

Except to the extent that a standby requires presentation of an electronic record:

- a. a person honouring a presentation has no obligation to the applicant to ascertain the identity of any person making a presentation or any assignee of proceeds;
- b. payment to a named beneficiary, transferee, an acknowledged assignee, successor by operation of law, to an account or account number stated in the standby or in a cover instruction from the beneficiary or nominated person fulfills the obligation under the standby to effect payment.

#### **4.14 Name of Acquired or Merged Issuer or Confirmer**

If the issuer or confirmer is reorganized, merged, or changes its name, any required reference by name to the issuer or confirmer in the documents presented may be to it or its successor.

#### **4.15 Original, Copy, and Multiple Documents**

- a. A presented document must be an original.
- b. Presentation of an electronic record, where an electronic presentation is permitted or required is deemed to be an "original".

- c. i. A presented document is deemed to be an **“original”** unless it appears on its face to have been reproduced from an original.
- ii. A document which appears to have been reproduced from an original is deemed to be an original if the signature or authentication appears to be original.
- d. A standby that requires presentation of a **“copy”** permits presentation of either an original or copy unless the standby states that only a copy be presented or otherwise addresses the disposition of all originals.
- e. If multiples of the same document are requested, only one must be an original unless:
  - i. “duplicate originals” or “multiple originals” are requested in which case all must be originals; or
  - ii. “two copies”, “two-fold”, or the like are requested in which case either originals or copies may be presented.

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## **Standby Document Types**

### **4.16 Demand for Payment**

- a. A demand for payment need not be separate from the beneficiary’s statement or other required document.
- b. If a separate demand is required, it must contain:
  - i. a demand for payment from the beneficiary directed to the issuer or nominated person;
  - ii. a date indicating when the demand was issued;
  - iii. the amount demanded; and
  - iv. the beneficiary’s signature.
- c. A demand may be in the form of a draft or other instruction, order, or request to pay. If a standby requires presentation of a “draft” or “bill of

exchange", that draft or bill of exchange need not be in negotiable form unless the standby so states.

#### **4.17 Statement of Default or Other Drawing Event**

If a standby requires a statement, certificate, or other recital of a default or other drawing event and does not specify content, the document complies if it contains:

- a. a representation to the effect that payment is due because a drawing event described in the standby has occurred;
- b. a date indicating when it was issued; and
- c. the beneficiary's signature.

#### **4.18 Negotiable Documents**

If a standby requires presentation of a document that is transferable by endorsement and delivery without stating whether, how, or to whom endorsement must be made, then the document may be presented without endorsement, or, if endorsed, the endorsement may be in blank and, in any event, the document may be issued or negotiated with or without recourse.

#### **4.19 Legal or Judicial Documents**

If a standby requires presentation of a government-issued document, a court order, an arbitration award, or the like, a document or a copy is deemed to comply if it appears to be:

- i. issued by a government agency, court, tribunal, or the like;
- ii. suitably titled or named;
- iii. signed;
- iv. dated; and
- v. originally certified or authenticated by an official of a government agency, court, tribunal, or the like.

#### 4.20 Other Documents

- a. If a standby requires a document other than one whose content is specified in these Rules without specifying the issuer, data content, or wording, a document complies if it appears to be appropriately titled or to serve the function of that type of document under standard standby practice.
- b. A document presented under a standby is to be examined in the context of standby practice under these Rules even if the document is of a type (such as a commercial invoice, transport documents, insurance documents or the like) for which the Uniform Customs and Practice for Documentary Credits contains detailed rules.

#### 4.21 Request to Issue Separate Undertaking

If a standby requests that the beneficiary of the standby issue its own separate undertaking to another (whether or not the standby recites the text of that undertaking):

- a. the beneficiary receives no rights other than its rights to draw under the standby even if the issuer pays a fee to the beneficiary for issuing the separate undertaking;
- b. neither the separate undertaking nor any documents presented under it need be presented to the issuer; and
- c. if originals or copies of the separate undertaking or documents presented under it are received by the issuer although not required to be presented as a condition to honour of the standby:
  - i. the issuer need not examine, and, in any event, shall disregard their compliance or consistency with the standby, with the beneficiary's demand under the standby, or with the beneficiary's separate undertaking; and
  - ii. the issuer may without responsibility return them to the presenter or forward them to the applicant with the presentation.

## **RULE 5**

### **NOTICE, PRECLUSION, AND DISPOSITION OF DOCUMENTS**

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#### **5.01 Timely Notice of Dishonour**

- a.** Notice of dishonour must be given within a time after presentation of documents which is not unreasonable.
  - i. Notice given within three business days is deemed to be not unreasonable and beyond seven business days is deemed to be unreasonable.
  - ii. Whether the time within which notice is given is unreasonable does not depend upon an imminent deadline for presentation.
  - iii. The time for calculating when notice of dishonour must be given begins on the business day following the business day of presentation.
  - iv. Unless a standby otherwise expressly states a shortened time within which notice of dishonour must be given, the issuer has no obligation to accelerate its examination of a presentation.
- b.**
  - i. The means by which a notice of dishonour is to be given is by telecommunication, if available, and, if not, by another available means which allows for prompt notice.
  - ii. If notice of dishonour is received within the time permitted for giving the notice, then it is deemed to have been given by prompt means.
- c.** Notice of dishonour must be given to the person from whom the documents were received (whether the beneficiary, nominated person, or person other than a delivery person) except as otherwise requested by the presenter.

**5.02 Statement of Grounds for Dishonour**

A notice of dishonour shall state all discrepancies upon which dishonour is based.

**5.03 Failure to Give Timely Notice of Dishonour**

- a. Failure to give notice of a discrepancy in a notice of dishonour within the time and by the means specified in the standby or these rules precludes assertion of that discrepancy in any document containing the discrepancy that is retained or re-presented, but does not preclude assertion of that discrepancy in any different presentation under the same or a separate standby.
- b. Failure to give notice of dishonour or acceptance or acknowledgment that a deferred payment undertaking has been incurred obligates the issuer to pay at maturity.

**5.04 Notice of Expiry**

Failure to give notice that a presentation was made after the expiration date does not preclude dishonour for that reason.

**5.05 Issuer Request for Applicant Waiver without Request by Presenter**

If the issuer decides that a presentation does not comply and if the presenter does not otherwise instruct, the issuer may, in its sole discretion, request the applicant to waive non-compliance or otherwise to authorise honour within the time available for giving notice of dishonour but without extending it. Obtaining the applicant's waiver does not obligate the issuer to waive non-compliance.

**5.06 Issuer Request for Applicant Waiver upon Request of Presenter**

If, after receipt of notice of dishonour, a presenter requests that the presented documents be forwarded to the issuer or that the issuer seek the applicant's waiver:

- a. no person is obligated to forward the discrepant documents or seek the applicant's waiver;
- b. the presentation to the issuer remains subject to these Rules unless departure from them is expressly consented to by the presenter; and
- c. if the documents are forwarded or if a waiver is sought:
  - i. the presenter is precluded from objecting to the discrepancies notified to it by the issuer;
  - ii. the issuer is not relieved from examining the presentation under these Rules;
  - iii. the issuer is not obligated to waive the discrepancy even if the applicant waives it; and
  - iv. the issuer must hold the documents until it receives a response from the applicant or is requested by the presenter to return the documents, and if the issuer receives no such response or request within ten business days of its notice of dishonour, it may return the documents to the presenter.

#### **5.07 Disposition of Documents**

Dishonoured documents must be returned, held, or disposed of as reasonably instructed by the presenter. Failure to give notice of the disposition of documents in the notice of dishonour does not preclude the issuer from asserting any defense otherwise available to it against honour.

#### **5.08 Cover Instructions/Transmittal Letter**

- a. Instructions accompanying a presentation made under a standby may be relied on to the extent that they are not contrary to the terms or conditions of the standby, the demand, or these Rules.
- b. Representations made by a nominated person accompanying a presentation may be relied upon to the extent that they are not contrary to the terms or conditions of a standby or these Rules.

- c. Notwithstanding receipt of instructions, an issuer or nominated person may pay, give notice, return the documents, or otherwise deal directly with the presenter.
- d. A statement in the cover letter that the documents are discrepant does not relieve the issuer from examining the presentation for compliance.

#### **5.09 Applicant Notice of Objection**

- a. An applicant must timely object to an issuer's honour of a noncomplying presentation by giving timely notice by prompt means.
- b. An applicant acts timely if it objects to discrepancies by sending a notice to the issuer stating the discrepancies on which the objection is based within a time after the applicant's receipt of the documents which is not unreasonable.
- c. Failure to give a timely notice of objection by prompt means precludes assertion by the applicant against the issuer of any discrepancy or other matter apparent on the face of the documents received by the applicant, but does not preclude assertion of that objection to any different presentation under the same or a different standby.

**RULE 6****TRANSFER, ASSIGNMENT, AND  
TRANSFER BY OPERATION OF LAW**

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**Transfer of Drawing Rights****6.01 Request to Transfer Drawing Rights**

Where a beneficiary requests that an issuer or nominated person honour a drawing from another person as if that person were the beneficiary, these Rules on transfer of drawing rights (“transfer”) apply.

**6.02 When Drawing Rights are Transferable**

- a. A standby is not transferable unless it so states.
- b. A standby that states that it is transferable without further provision means that drawing rights:
  - i. may be transferred in their entirety more than once;
  - ii. may not be partially transferred; and
  - iii. may not be transferred unless the issuer (including the confirmer) or another person specifically nominated in the standby agrees to and effects the transfer requested by the beneficiary.

**6.03 Conditions to Transfer**

An issuer of a transferable standby or a nominated person need not effect a transfer unless:

- a. it is satisfied as to the existence and authenticity of the original standby; and
- b. the beneficiary submits or fulfills:
  - i. a request in a form acceptable to the issuer or nominated person including the effective date of the transfer and the name and address of the transferee;

- ii. the original standby;
- iii. verification of the signature of the person signing for the beneficiary;
- iv. verification of the authority of the person signing for the beneficiary;
- v. payment of the transfer fee; and
- vi. any other reasonable requirements.

#### **6.04 Effect of Transfer on Required Documents**

Where there has been a transfer of drawing rights in their entirety:

- a.** a draft or demand must be signed by the transferee beneficiary; and
- b.** the name of the transferee beneficiary may be used in place of the name of the transferor beneficiary in any other required document.

#### **6.05 Reimbursement for Payment Based on a Transfer**

An issuer or nominated person paying under a transfer pursuant to Rule 6.03(a), (b)(i), and (b)(ii) is entitled to reimbursement as if it had made payment to the beneficiary.

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### **Acknowledgment of Assignment of Proceeds**

#### **6.06 Assignment of Proceeds**

Where an issuer or nominated person is asked to acknowledge a beneficiary's request to pay an assignee all or part of any proceeds of the beneficiary's drawing under the standby, these Rules on acknowledgment of an assignment of proceeds apply except where applicable law otherwise requires.

## 6.07 Request for Acknowledgment

- a. Unless applicable law otherwise requires, an issuer or nominated person
  - i. is not obligated to give effect to an assignment of proceeds which it has not acknowledged; and
  - ii. is not obligated to acknowledge the assignment.
- b. If an assignment is acknowledged:
  - i. the acknowledgment confers no rights with respect to the standby to the assignee who is only entitled to the proceeds assigned, if any, and whose rights may be affected by amendment or cancellation; and
  - ii. the rights of the assignee are subject to:
    - (a) the existence of any net proceeds payable to the beneficiary by the person making the acknowledgment;
    - (b) rights of nominated persons and transferee beneficiaries;
    - (c) rights of other acknowledged assignees; and
    - (d) any other rights or interests that may have priority under applicable law.

## 6.08 Conditions to Acknowledgment of Assignment of Proceeds

An issuer or nominated person may condition its acknowledgment on receipt of:

- a. the original standby for examination or notation;
- b. verification of the signature of the person signing for the beneficiary;
- c. verification of the authority of the person signing for the beneficiary;
- d. an irrevocable request signed by the beneficiary for acknowledgment of the assignment that includes statements, covenants, indemnities, and other provisions which may be contained in the issuer's or nominated person's required form

requesting acknowledgment of assignment, such as:

- i. the identity of the affected drawings if the standby permits multiple drawings;
  - ii. the full name, legal form, location, and mailing address of the beneficiary and the assignee;
  - iii. details of any request affecting the method of payment or delivery of the standby proceeds;
  - iv. limitation on partial assignments and prohibition of successive assignments;
  - v. statements regarding the legality and relative priority of the assignment; or
  - vi. right of recovery by the issuer or nominated person of any proceeds received by the assignee that are recoverable from the beneficiary;
- e. payment of a fee for the acknowledgment; and
- f. fulfillment of other reasonable requirements.

#### **6.09 Conflicting Claims to Proceeds**

If there are conflicting claims to proceeds, then payment to an acknowledged assignee may be suspended pending resolution of the conflict.

#### **6.10 Reimbursement for Payment Based on an Assignment**

An issuer or nominated person paying under an acknowledged assignment pursuant to Rule 6.08(a) and (b) is entitled to reimbursement as if it had made payment to the beneficiary. If the beneficiary is a bank, the acknowledgment may be based solely upon an authenticated communication.

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## **Transfer by Operation of Law**

### **6.11 Transferee by Operation of Law**

Where an heir, personal representative, liquidator, trustee, receiver, successor corporation, or similar person who claims to be designated by law to succeed to the interests of a beneficiary presents documents in its own name as if it were the authorised transferee of the beneficiary, these Rules on transfer by operation of law apply.

### **6.12 Additional Document in Event of Drawing in Successor's Name**

A claimed successor may be treated as if it were an authorised transferee of a beneficiary's drawing rights in their entirety if it presents an additional document or documents which appear to be issued by a public official or representative (including a judicial officer) and indicate:

- a. that the claimed successor is the survivor of a merger, consolidation, or similar action of a corporation, limited liability company, or other similar organization;
- b. that the claimed successor is authorised or appointed to act on behalf of the named beneficiary or its estate because of an insolvency proceeding;
- c. that the claimed successor is authorised or appointed to act on behalf of the named beneficiary because of death or incapacity; or
- d. that the name of the named beneficiary has been changed to that of the claimed successor.

### **6.13 Suspension of Obligations upon Presentation by Successor**

An issuer or nominated person which receives a presentation from a claimed successor which complies in all respects except for the name of the beneficiary:

- a. may request in a manner satisfactory as to form and substance:
- i. a legal opinion;
  - ii. an additional document referred to in Rule 6.12 (Additional Document in Event of Drawing in Successor's Name) from a public official;
  - iii. statements, covenants, and indemnities regarding the status of the claimed successor as successor by operation of law;
  - iv. payment of fees reasonably related to these determinations; and
  - v. anything which may be required for a transfer under Rule 6.03 (Conditions to Transfer) or an acknowledgment of assignment of proceeds under Rule 6.08 (Conditions to Acknowledgment of Assignment of Proceeds);

but such documentation shall not constitute a required document for purposes of expiry of the standby.

- b. Until the issuer or nominated person receives the requested documentation, its obligation to honour or give notice of dishonour is suspended, but any deadline for presentation of required documents is not thereby extended.

#### **6.14 Reimbursement for Payment Based on a Transfer by Operation of Law**

An issuer or nominated person paying under a transfer by operation of law pursuant to Rule 6.12 (Additional Document in Event of Drawing in Successor's Name) is entitled to reimbursement as if it had made payment to the beneficiary.

**RULE 7****CANCELLATION**

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**7.01 When an Irrevocable Standby is Cancelled or Terminated**

A beneficiary's rights under a standby may not be cancelled without its consent. Consent may be evidenced in writing or by an action such as return of the original standby in a manner which implies that the beneficiary consents to cancellation. A beneficiary's consent to cancellation is irrevocable when communicated to the issuer.

**7.02 Issuer's Discretion Regarding a Decision to Cancel**

Before acceding to a beneficiary's authorization to cancel and treating the standby as cancelled for all purposes, an issuer may require in a manner satisfactory as to form and substance:

- a. the original standby;
- b. verification of the signature of the person signing for the beneficiary;
- c. verification of the authorization of the person signing for the beneficiary;
- d. a legal opinion;
- e. an irrevocable authority signed by the beneficiary for cancellation that includes statements, covenants, indemnities, and similar provisions contained in a required form;
- f. satisfaction that the obligation of any confirmer has been cancelled;
- g. satisfaction that there has not been a transfer or payment by any nominated person; and
- h. any other reasonable measure.

**RULE 8****REIMBURSEMENT OBLIGATIONS**

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**8.01 Right to Reimbursement**

- a. Where payment is made against a complying presentation in accordance with these Rules, reimbursement must be made by:
  - i. an applicant to an issuer requested to issue a standby; and
  - ii. an issuer to a person nominated to honour or otherwise give value.
- b. An applicant must indemnify the issuer against all claims, obligations, and responsibilities (including attorney's fees) arising out of:
  - i. the imposition of law or practice other than that chosen in the standby or applicable at the place of issuance;
  - ii. the fraud, forgery, or illegal action of others; or
  - iii. the issuer's performance of the obligations of a confirmer that wrongfully dishonours a confirmation.
- c. This Rule supplements any applicable agreement, course of dealing, practice, custom or usage providing for reimbursement or indemnification on lesser or other grounds.

**8.02 Charges for Fees and Costs**

- a. An applicant must pay the issuer's charges and reimburse the issuer for any charges that the issuer is obligated to pay to persons nominated with the applicant's consent to advise, confirm, honour, negotiate, transfer, or to issue a separate undertaking.
- b. An issuer is obligated to pay the charges of other persons:

- i. if they are payable in accordance with the terms of the standby; or
- ii. if they are the reasonable and customary fees and expenses of a person requested by the issuer to advise, honour, negotiate, transfer, or to issue a separate undertaking, and they are unrecovered and unrecoverable from the beneficiary or other presenter because no demand is made under the standby.

### **8.03 Refund of Reimbursement**

A nominated person that obtains reimbursement before the issuer timely dishonours the presentation must refund the reimbursement with interest if the issuer dishonours. The refund does not preclude the nominated person's wrongful dishonour claims.

### **8.04 Bank-to-Bank Reimbursement**

Any instruction or authorization to obtain reimbursement from another bank is subject to the International Chamber of Commerce standard rules for bank-to-bank reimbursements.

**RULE 9****TIMING**

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**9.01 Duration of Standby**

A standby must:

- a. contain an expiry date; or
- b. permit the issuer to terminate the standby upon reasonable prior notice or payment.

**9.02 Effect of Expiration on Nominated Person**

The rights of a nominated person that acts within the scope of its nomination are not affected by the subsequent expiry of the standby.

**9.03 Calculation of Time**

- a. A period of time within which an action must be taken under these Rules begins to run on the first business day following the business day when the action could have been undertaken at the place where the action should have been undertaken.
- b. An extension period starts on the calendar day following the stated expiry date even if either day falls on a day when the issuer is closed.

**9.04 Time of Day of Expiration**

If no time of day is stated for expiration, it occurs at the close of business at the place of presentation.

**9.05 Retention of Standby**

Retention of the original standby does not preserve any rights under the standby after the right to demand payment ceases.

**RULE 10****SYNDICATION / PARTICIPATION**

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**10.01 Syndication**

If a standby with more than one issuer does not state to whom presentation may be made, presentation may be made to any issuer with binding effect on all issuers.

**10.02 Participation**

- a.** Unless otherwise agreed between an applicant and an issuer, the issuer may sell participations in the issuer's rights against the applicant and any presenter and may disclose relevant applicant information in confidence to potential participants.
- b.** An issuer's sale of participations does not affect the obligations of the issuer under the standby or create any rights or obligations between the beneficiary and any participant.

## INDEX

### Advice/Advisor

Amendment .....	2.05; 2.07
Application of Rules to .....	1.04
Generally .....	2.05
Nominated Party .....	2.04
Obligation of .....	2.05
Reimbursement of Costs of .....	8.02
Refusal to .....	2.05

### Acknowledgment of Assignment of Proceeds

see Assignment of Proceeds

### Amendment

Advice of; Advisor .....	2.05; 2.07
Application of Rules to .....	1.04
Automatic .....	2.06(a)
Binding .....	1.06
Extend or Pay .....	3.09
Generally .....	2.06; 2.07
Irrevocable .....	1.06
Issuer's Amendment .....	1.06; 2.06; 2.07
Non-Documentary Conditions .....	4.11
Partial Consent to .....	2.06
Routing .....	2.07
Transfer of Drawing Rights .....	6.07(b)

### Applicant

Application of Rules .....	1.04
Approval of Required Document .....	4.10
Consent to Amendment (Issuer/Confirmer/Beneficiary) ...	2.06
Defined .....	1.09(a)
Independence .....	1.06
Irrevocable .....	1.06
Notice of Presentation .....	3.10
Double Payment (Risk of) .....	4.13
Objection to Discrepancies .....	5.09
Reimbursement .....	8.01
Waiver by .....	3.11; 3.12; 5.05; 5.06
Consent to .....	3.12
Notice of .....	3.11
Request for .....	5.05; 5.06

### Archives

see Records

### Assignment of Proceeds

Acknowledgment of .....	6.07
Beneficiary as a Bank .....	6.10
Conditions to .....	6.08; 6.13

"Assignable" .....	1.10
Assignee	
Identification of .....	4.13
Rights of .....	6.07
Suspension of Payment .....	6.09
Conflicting Claims .....	6.09
Generally .....	6.06; 6.07; 6.08; 6.09; 6.10
Partial, Limited .....	6.08
Reimbursement .....	6.10

### **Attorney's Fees**

Reimbursement of .....	6.13; 8.01
------------------------	------------

### **Bank-to-Bank Reimbursement**

*see* Reimbursement

### **Beneficiary**

Amendment, Consent to .....	2.06
Application of Rules to .....	1.04
Assignment, Request for .....	6.08
Change of Name Due to Succession .....	6.12
Defined .....	1.09; 1.11
Double Payment .....	4.13
Obligations of	
Notice of Dishonour .....	5.01; 6.13
Waiver by Issuer .....	3.11
Cancellation .....	7.03
Transferee .....	6.04
Transferee Beneficiary .....	1.11
<i>see</i> Types of Documents	

### **Business Day/Business Hours**

Calculation of Time .....	9.03
Closure on .....	3.14
Definition of .....	1.09
Notice of Dishonour .....	5.01
Presentation After End of .....	3.05
<i>see</i> "Calendar Day"; Non-Business Day	

### **Calendar Day**

Generally .....	3.14
-----------------	------

### **Cancellation**

Beneficiary's Consent to .....	7.01
Effect on Assignee .....	6.07
Effect on Issuer or Nominated Person .....	1.06; 2.07; 7.02
Generally .....	7.01
Implied by Return of Original .....	7.01
Requirements of .....	7.02

### **Closure**

Generally .....	3.13; 3.14
<i>see</i> Business Day, Closure; Presentation, Closure	

**Communication**

Authentication Required for Acknowledgment of Assignment .....	6.10
Electronic .....	1.09

**Comply; Complying; Compliance**

Delivery .....	3.04
Examination .....	1.06; 2.01; 3.01; 3.02
Separate Undertaking .....	4.21

**Condition**

see Non-Documentary Conditions

**Confirmation - Confirmer**

Acquisition or Merger, Change of Name .....	4.14
Amendment .....	2.06
Application of Rules to .....	1.04
Cancellation .....	7.02
Definition .....	1.09; 1.11
Issuer: Use of Term .....	1.11
Nomination by Applicant .....	2.04; 8.02
Obligations	
to Honour Complying Presentation .....	2.01
upon Issuer's Wrongful Dishonour .....	2.01
Place of Presentation .....	3.04
Rights of	
Reimbursement of Costs .....	8.02
Transfer of Drawing Rights .....	6.02
Wrongful Dishonour by .....	8.01

**Copies**

Generally .....	4.15
Letter of Credit Documents .....	3.03; 3.12
Original Standby Lost, Stolen, Mutilated, or Destroyed ...	3.12
Separate Undertaking (Documents Under) .....	4.21

**Cover Letter**

Generally .....	5.08
Identification of Standby .....	3.03
Payment .....	4.13

**Cure**

Generally .....	3.07
-----------------	------

**Date**

Issuance of Documents .....	4.06
Judicial/Legal Document .....	4.19
Presentation .....	4.06
Separate Demand .....	4.16
Statement of Default .....	4.17
see Calculation; Expiry Date	

**Defenses to Honour**

Generally .....	1.05
-----------------	------

**Deferred Payment Undertaking**

Honour .....	2.01
Nomination .....	2.04
Notice of Dishonour .....	5.03
Suspension .....	6.13

**Definitions**

Generally .....	1.09
"Standby" .....	1.01

**Demand**

Acceptance .....	2.01; 2.04
Conflict with Cover Letter .....	5.08
Definition .....	1.09
Document Implied .....	4.08
Generally .....	4.16
Honour .....	4.01
Reimbursement of Costs .....	8.02
Separate, Requirements .....	4.16
Separate Undertaking .....	4.21
Suspension of Honour .....	6.13
Transfer of Drawing Rights .....	6.04

**Discrepant Documents**

Forwarding at Beneficiary's Request .....	5.06
Issuer's Request to Waive .....	5.05
Notice of Objection .....	5.09
Standard of Examination .....	5.01
Timely Assertion .....	5.03

**Dishonour**

Cure .....	3.07
Disposition of Documents .....	5.07
Issuer, Affect on Confirmer .....	2.01
Nominated Bank .....	2.04
Notice of, see Notice of Dishonour	
Reimbursement Before .....	8.03
Re-presentation .....	3.07
Statement of Grounds .....	5.02
Wrongful, see Wrongful Dishonour	

**Document**

Copy .....	3.03; 3.12; 4.15; 4.21
Date .....	4.06; 4.16; 4.17; 4.19
Definition .....	1.09
Demand .....	4.01; 4.16; 4.21; 5.08; 6.04
Implied .....	4.08
Discrepant .....	5.03; 5.05; 5.06; 5.09
Disposition .....	5.07
Effect of Transfer .....	6.04
Examination .....	3.02
for Compliance .....	4.01
for Inconsistency .....	4.03

Extraneous - see Extraneous Documents	
Formality of .....	4.12
Held by Issuer .....	5.06
Issued by Beneficiary/Third Party .....	4.05
Judicial/Legal .....	4.19
Language of .....	4.04
Multiple .....	4.15
Name of Beneficiary .....	6.04; 6.11
Name of Issuer/Confirmer .....	4.14
Nature of Standby .....	1.06
Negotiable .....	4.18
Original Required .....	4.15
Other .....	4.20
Separate Undertaking .....	4.21
Signature Required .....	4.07; 4.10
Statement of Default .....	4.17
Successor Beneficiary .....	6.12; 6.13
Witnessing .....	4.12
Wording of Attached Exhibit/Form; Blocked Wording; "Exact" or "Identical"; Quoted Wording .....	4.09

### **Draft**

see Demand

### **Drawings**

Assignment of Proceeds .....	6.06
Definition .....	1.09
Fraudulent/Abusive .....	1.05
Installment .....	3.07
Multiple .....	3.08; 3.07; 6.08
Request for Acknowledgment of Assignment of Proceeds .....	6.08; 6.13
Partial .....	3.08
Separate Undertaking, Beneficiary's Right .....	4.21
Successor .....	6.12
Transfer .....	6.01; 6.02

### **Electronic Commerce**

Electronic Presentation .....	1.09
Electronic Record .....	1.09

### **Evergreen**

Automatic .....	1.10
Non-Extension of .....	2.07
Reinstate .....	1.10

### **Examination of Documents**

Condition to Acknowledgment of Assignment of Proceeds .....	6.08; 6.13
Extend or Pay .....	3.09
Extraneous Documents .....	4.02
Generally .....	Rule 4

Separate Undertaking, Documents Under .....	4.21
Standard of .....	1.06; 4.03
Succession .....	6.13
Time, When Commences .....	3.02
Timely .....	2.01; 5.01
<b>Expiry; Expiration; Expiry Date; Expiration Date</b>	
Document Required .....	6.13
Effect on Nominated Person .....	9.02
Expiration Date .....	3.13; 3.09
Definition of .....	1.09
Required .....	1.09; 3.09; 3.13; 9.01
Extension .....	2.06; 3.09; 3.13; 3.14; 9.03
Failure to Identify Standby .....	3.03
Notice .....	5.04
Presentation	
After Expiry .....	3.13; 3.14; 5.04
Timely .....	3.05; 3.01
Time, Calculated at Place of Presentation .....	3.05; 9.04
<b>Extend or Pay</b>	
Generally .....	3.09
<b>Extraneous Documents</b>	
Cover Document .....	4.02
Transfer by Operation of Law .....	4.02
<b>Force Majeure</b>	
Closure Due to .....	3.14
<i>see Business Day, Closure; Presentation, Closure</i>	
<b>Fraud</b>	
ISP98 Does Not Address .....	1.05
Not Responsible to Identify Beneficiary .....	4.13
Reimbursement Arising Out of .....	8.01
<b>Honour</b>	
Conditions to .....	4.21
Confirmer .....	2.01
Demand for	
Compliance with Terms of Standby .....	4.01
Suspension of Obligation .....	6.13
Generally .....	3.07
Issuer .....	2.01
Multiple Presentations .....	3.08
Negotiation .....	2.01
Obligation to Identify Presenter or Assignee .....	4.13
Timely Acceptance of .....	2.01
Transfer of Drawing Rights .....	6.01
Wrongful, <i>see Wrongful Honour</i>	
<b>Independence</b>	
Generally .....	1.06
Issuer/Beneficiary Relationship .....	1.07

**Irrevocable**

Conditions to Issuance of Standby .....	2.03
Nature of Standby .....	1.06

**ISP98**

Application of .....	1.01; 1.03
Interpretation of .....	1.03, 1.11
Modification of .....	1.01; 1.04
Relation to Other Laws .....	1.02

**Issuance**

Conditions to .....	2.03
Irrevocable upon .....	1.06

**Issuer**

Amendment .....	2.06; 2.07
Routing of .....	2.07
Application of Rules to .....	1.04
Branch, Agency or Other Office of .....	2.03
Closure	
On a Business Day .....	3.14
On First Day of Extension Period .....	9.03
Confirmer .....	1.11; 3.11
Discretion .....	3.11
Issuance .....	2.03
Location .....	3.03
Multiple .....	10.01
Name of	
If Acquired or Merged .....	4.14
Obligations of .....	3.10; 4.10
Applicant .....	1.07
Applicant Waiver .....	5.05; 5.06
Beneficiary .....	1.07
Confirmer's Wrongful Dishonour .....	2.01
Honour Complying Presentation .....	2.01
Suspension of .....	6.13
Irrevocable .....	1.06
Nominated Person .....	2.07; 8.02
Notice of Dishonour .....	5.02; 5.03
Reimbursement Prior to .....	8.03
Suspension .....	6.13
Underlying Transaction .....	1.08
Participation .....	10.02
Place of Presentation .....	3.04; 3.14
Power to Act as .....	1.05
Records .....	4.11
Rights	
Acknowledgment of Assignment of Proceeds .....	6.08
Applicant Waiver .....	5.05; 5.06
Available Defenses .....	1.05; 5.07
Cover Instructions .....	5.08

Indemnities .....	3.12
Payment .....	1.06; 6.05
Reimbursement .....	3.12; 6.10; 6.12; 6.14; 8.01; 8.02
Separate Undertaking .....	4.21
Successor .....	6.13
Waiver .....	3.02; 3.03; 3.04; 3.05; 3.06; 3.11; 4.04; 4.06; 4.09; 4.10
Syndication .....	10.02
Timely Action .....	2.01
Transfer of Drawing Rights .....	6.01; 6.02; 6.03; 6.13
Waiver on Own Initiative .....	5.05
<i>see also</i> Assignment of Proceeds; Documents, Examination; Standby, Identification; Transfer by Operation of Law	

### Medium

Electronic .....	1.09
Electronic Record .....	1.09
Presentation .....	4.11
for Notice of Dishonour .....	5.01; 5.03
for Notice of Objection .....	5.09

### Multiple Drawings

*see* Drawings

### Negotiation

Negotiable Documents - <i>see</i> Documents, Negotiable	
Nomination of Negotiator .....	2.04; 8.02
Reimbursement of Costs of .....	8.02
Recourse .....	4.18

### Nominated Person

Application of Rules to .....	1.04
Cover Instructions from .....	4.13
Expiry, Effect of .....	9.02
Obligations of .....	2.04
Assignment of Proceeds .....	6.06
Acknowledgment of .....	6.07; 6.08; 6.13
Examination for Inconsistency .....	4.03
Presentation .....	3.13
Expiration on a Non-Business Day .....	3.13
Notification to Issuer .....	3.13
Reimbursement .....	6.10; 6.12; 6.14; 8.01; 8.03
Reimbursement of Issuer .....	8.02
Rights .....	2.04
Transfer of Drawing Rights ..	6.01; 6.02; 6.03; 6.05; 6.13; 7.02

### Non-Business Day

Closure on .....	3.13
------------------	------

### Non-Documentary Conditions

Generally .....	2.01; 4.11
-----------------	------------

**Notice, Receipt of**

Amendment .....	2.07
Consent to Waive .....	3.11
Dishonour - see Notice of Dishonour	
Disposition of Documents .....	5.07
Expiry - see Expiry, Notice of	
Non-Renewal .....	2.07
Objection .....	5.09
Receipt of Presentation .....	3.10
Refusal to Advise .....	2.05
Termination .....	9.01

**Notice of Dishonour**

Communication of .....	5.01
Content .....	5.02
Notice of Disposition of Documents .....	5.07
Suspension .....	6.13
Time, When Commences .....	3.02; 5.01
Timely .....	2.01; 3.09; 5.01; 5.03
Seek Applicant Waiver .....	5.05; 5.06

**Original**

As a Condition to Acknowledgment of Assignment of Proceeds .....	6.08
Cancellation .....	7.01; 7.02
Existence and Authenticity of .....	6.03
“Multiple” and “Duplicate” .....	4.15
Presentation of .....	3.03; 4.15
Replacement of Lost, Stolen, Mutilated, or Destroyed Standby .....	3.12
Retention of After Expiry .....	9.05
Separate Undertaking .....	4.21
Signature - see Signature, Original	

**Partial Drawings**

see Drawing

**Paying Bank**

Generally .....	2.04
-----------------	------

**Payment**

Expiry .....	9.05
Identification of Person Receiving .....	4.13
Method .....	2.01
Sight .....	2.01
Suspension .....	6.09
Termination by .....	9.01
Unit of Account .....	2.01

**Preclusion**

Disposition of Documents .....	5.07
Documents Forwarded or Waiver Sought .....	5.06

Expiry .....	5.04
Objection .....	5.09
Timely Notice, Failure to Give .....	5.03

### **Presentation**

Closure of Place of .....	3.13; 3.14
Complying .....	1.06; 2.01; 3.13; 3.04; 3.02; 3.01
Extraneous Documents .....	4.02
Non-Documentary Conditions .....	4.11
Payment Against .....	8.01
Cover Instructions .....	5.08
Date .....	4.06
Definition .....	1.09
Demand .....	4.16
Dishonour, Timely Notice .....	5.01
Suspension .....	6.13
Documents Forwarded to Issuer .....	5.06
Electronic .....	4.13; 4.15
Examination, Standards .....	4.01; 4.02; 4.11
Generally .....	Rule 3
Identification of Standby .....	3.03
Inability .....	3.14
Issuer/Confirmer .....	2.01
Judicial/Legal Document .....	4.19
Medium .....	3.06
Multiple .....	3.08; 3.07
Documents .....	4.15
Issuers .....	10.01
Negotiable Documents .....	4.18
Non-Complying .....	3.07; 5.03; 5.04; 5.05; 5.06; 5.09
Obligation to Notify .....	3.10
Original/Copy .....	3.12; 4.15
Person to Whom Made .....	3.01
Place .....	3.01; 3.04; 3.14; 4.11
Re-presentation .....	5.03; 5.09
Separate Undertaking .....	4.21
Successor .....	6.11; 6.12; 6.13
Timely .....	3.01; 3.05; 3.13; 3.14; 5.04; 6.13; 9.04
Waiver of Rules .....	3.11; 5.05; 5.06

### **Proceeds**

see Assignment of Proceeds

### **Reasonable Time**

Generally .....	3.09
Notice of Dishonour .....	5.01
Suspension of .....	6.13
see Notice, Receipt of	

### **Records**

see Document; Issuer, Records

**Reimbursement**

Agreement .....	1.06
Assignment of Proceeds .....	6.10
Attorney's Fees .....	6.13; 8.01
Bank-to-Bank .....	8.03
Costs of Nominated Person .....	8.02
Right to .....	1.06; 8.01
Transfer of Drawing Rights .....	6.05
Transfer by Operation of Law .....	6.12; 6.14

**Signature**

Beneficiary	
Authorizing Cancellation .....	7.02
Request for Acknowledgment of Assignment of Proceeds .....	6.08; 6.13
Separate Demand .....	4.16
Statement of Default .....	4.17
Complying .....	4.07
Definition .....	1.09
Electronic .....	1.09
Judicial/Judicial Document .....	4.19
Medium of .....	4.07
Negotiable Documents .....	4.18
Original .....	4.15
Required .....	4.07; 4.10; 4.12
Status of Signer .....	4.07
Transfer of Drawing Rights .....	6.03; 6.04
Verification/Authority .....	6.08; 7.02
Witness .....	4.12

**Standard Standby Practice**

Advice .....	2.05
Examination .....	4.01; 4.20
Interpretation of Rules .....	1.03
Other Rules .....	1.02
Presentation .....	2.01
Required Documents	
Issued by Third Party .....	4.05
Other .....	4.20
Required Signature .....	4.07

**Standby**

Authorized by Applicant .....	1.06
Conditions to Issuance .....	2.03
Definition .....	1.01, 1.11
Formalities .....	1.05
Identification .....	3.03
Nature .....	1.06
Undesirable Terms .....	1.10
see Original	

**Statement of Default**

Generally ..... 4.17

**Successor; Succession; Successor by Operation of Law**

Additional Documents Required ..... 6.12

Beneficiary

Identification ..... 4.13

Payment ..... 6.14

Transferee ..... 6.11

Name of Issuer/Confirmer ..... 4.14

Presentation ..... 6.11; 6.12; 6.13

**Syndication**

Generally ..... 10.01; 10.02

**Termination**

Generally ..... 7.01

Issuer ..... 9.01

Non-Documentary Conditions ..... 4.11

Notice ..... 9.01

see Cancellation

**Time**

Business Day ..... 1.09

Calculation ..... 9.03

Day of Expiry ..... 9.04

Extension of Expiry ..... 9.03

Notice of Dishonour ..... 5.01

Suspension ..... 6.13

Notice of Objection ..... 5.09

Presentation ..... 3.05

**Transfer**

Application of Rules ..... 1.04

Conditions ..... 6.02; 6.03

Form of Request ..... 6.03; 6.13

Transferee ..... 6.11

Payment to ..... 6.14

Generally ..... 6.01; 6.02; 6.03; 6.04; 6.05;

6.11; 6.12; 6.13; 6.14

Partial Transfers ..... 6.02

Payment ..... 6.05

Transferee ..... 1.11

Identification of ..... 4.13

Successor as ..... 6.12

Presentation by ..... 6.11; 6.12; 6.13

**Transfer By Operation of Law**

Generally ..... 6.11; 6.12; 6.13; 6.14

**Typographical Errors**

see Documents - Wording of

**Undesirable Terms**

Conditions to Issuance of Standby .....	2.03
Generally .....	1.10

**Uniform Customs and Practice for Documentary Credits**

Documents, Examination .....	4.20
------------------------------	------

**Waiver**

Applicant Consent .....	3.11
Generally .....	3.07
Issuer's Request .....	5.05; 5.06
Issuer's Right .....	3.02; 3.03; 3.04; 3.05; 3.06 3.11; 4.06; 4.09; 4.10
Original, Presentation .....	3.12

**Wrongful Dishonour**

Complying Presentation .....	3.07
Confirmer .....	2.01
Issuer Reimbursement .....	8.01
Issuer .....	2.01
Reimbursement, Effect on .....	8.03

**Wrongful Honour**

Non-Complying Presentation .....	3.08
Notice of Objection .....	5.09

---

## ACKNOWLEDGMENTS

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The Drafting Group included Alejandro Alfaro Carral, Bancomer; Sue Auerbach, Office of the Comptroller of the Currency (U.S.); Michael Evan Avidon, Moses & Singer; James G. Barnes, Baker & McKenzie (Vice Chair); Alan Bloodgood, J.P. Morgan (ret.); Harold Burman, U.S. Department of State; Professor James E. Byrne, Institute of International Banking Law & Practice, Inc. (Chair & Reporter); Anthony Capasso, Chase Manhattan Bank; Leslie Corrigan, Citibank, N.A.; Brian J. Downey, Vorys & Sater (Secretary); Dr. Gerold Herrmann, Secretary, United Nations Commission on International Trade Law; Professor Boris Kozolchyk, National Law Center for Inter-American Free Trade; Jack Kurzer, Bankers Trust; Arthur Lloyd, Control Risks, Ltd.; Vincent Maulella, Chase Manhattan Bank; Paul Miserez, S.W.I.F.T.; Dennis Noah, First National Bank of Maryland; Donald Smith, Citibank, N.A.; Joseph Sommer, Federal Reserve Bank of New York; Dan Taylor, International Financial Services Association; and Fernando Villalon Ezquerro, Bancomer.

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---

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The ICC is the world business organization. It is the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

The ICC's purpose is to promote an open international trade and investment system and the market economy worldwide. It makes rules that govern the conduct of business across borders. It provides essential services, foremost among them the ICC International Court of Arbitration, the world's leading institution of its kind.

Within a year of the creation of the United Nations, the ICC was granted consultative status at the highest level with the UN and its specialized agencies. Today the ICC is the preferred partner of international and regional organizations whenever decisions have to be made on global issues of importance to business.

Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on vital technical or sectoral subjects. These include financial services, information technologies, telecommunications, marketing ethics, the environment, transportation, competition law and intellectual property, among others.

The ICC was founded in 1919 by a handful of far-sighted business leaders. Today it groups thousands of member companies and associations from over 130 countries. National committees in all major capitals coordinate with their membership to address the concerns of the business community and to put across to their governments the business views formulated by the ICC.

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## **INSTITUTE OF INTERNATIONAL BANKING LAW & PRACTICE**

The Institute of International Banking Law & Practice, Inc. was established in 1989 to conduct specialized research, provide educational programs, and coordinate projects in the field of international banking law and practice.

The Institute has created, developed, and administered programs designed to enhance the knowledge of international banking professionals. Through a full range of products and services it focuses on educating letter of credit practitioners including attorneys, bankers, treasurers, credit managers, and corporate professionals engaging in letter of credit practice. Thousands of internationally recognized organizations and government entities have turned to the Institute for letter of credit training and consulting needs. Professor James E. Byrne, founder and director of the Institute, is a world-renowned letter of credit expert.

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*For more information, contact:*

Institute of International Banking Law & Practice, Inc.  
P.O. Box 2235  
Montgomery Village, MD 20886 U.S.A.  
Phone: (1) 301.869.9840 Facsimile: (1) 301.926.1265  
E-mail: [info@iiblp.org](mailto:info@iiblp.org)

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*ISP98* fills an important gap in the market place. Though standby letters of credit have similarities with commercial letters of credit and other financial instruments, there are significant differences in scope and practice. Moreover, it is recognized that the ICC's *Uniform Customs and Practice for Documentary Credits* (UCP), which is internationally accepted for commercial letters of credit, is not appropriate for all forms of standbys. A new set of Rules was required for this workhorse of commerce and finance, which, in terms of value, exceeds commercial credits by a ratio of 5:1.

*ISP98* reflects a distillation of practices from a wide range of standby users – bankers, merchants, rating agencies, corporate treasurers, credit managers, government officials and banking regulators. Like the UCP for commercial credits, *ISP98* is destined to become the standard for the use of standbys in international transactions.

**ICC Publication N°590**

ISBN 92 842 1247 2



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38, Cours Albert 1er, 75008 Paris, France

Telephone +33 1 49 53 29 23 Fax +33 1 49 53 29 02

Internet [www.iccwbo.org](http://www.iccwbo.org) E-mail [pub@iccwbo.org](mailto:pub@iccwbo.org)



**Bank of Montreal**

250 Yonge St., 11th Floor  
Toronto, ON M5B 2L7  
Tel: 416 598-6112  
Fax: 416 598-6076  
SWIFT: BOFMCAT2

**Irrevocable  
Standby Letter of Credit No.: BMT06972210S**

ISSUE DATE: NOVEMBER 20, 2023  
EXPIRY DATE: NOVEMBER 19, 2024

BENEFICIARY:  
SIERRA WINDS BUSINESS PARK INC.,  
#1600, 10303 JASPER AVENUE NW,  
EDMONTON, AB T5J 3N6

APPLICANT:  
EASTERN MEAT SOLUTIONS INC., ON BEHALF OF SIERRA REALTY CALGARY CORPORATION.  
5090 EXPLORER DRIVE,  
SUITE 203, MISSISSAUGA,  
ONTARIO, L4W 4T9

AMOUNT: ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00).

WE HEREBY AUTHORIZE YOU TO DRAW ON BANK OF MONTREAL, GLOBAL TRADE OPERATIONS, 250 YONGE STREET, 11TH FLOOR, TORONTO, ON M5B 2L7, FOR THE ACCOUNT OF EASTERN MEAT SOLUTIONS INC. ON BEHALF OF SIERRA REALTY CALGARY CORPORATION UP TO AN AGGREGATE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00), AVAILABLE WITH OURSELVES, ON DEMAND, BY PAYMENT, AGAINST PRESENTATION OF THE DOCUMENT(S) DETAILED HEREIN.

1. BENEFICIARY'S CERTIFICATE, ON ITS LETTERHEAD, COMPLETED, DATED AND PURPORTEDLY SIGNED BY AN AUTHORIZED INDIVIDUAL STATING:  
"THE TENANT SIERRA REALTY CALGARY CORPORATION HAS FAILED TO FULFILL ITS OBLIGATIONS PURSUANT TO THE LEASE AGREEMENT ENTERED INTO BETWEEN SIERRA REALTY CALGARY CORPORATION AS TENANT AND SIERRA WINDS BUSINESS PARK INC., AS LANDLORD FOR THE LEASE PREMISES DESCRIBED AS PLAN 1910413 BLOCK 1 LOT 1 DATED MARCH 10, 2023, AS MAY BE AMENDED, SUPPLEMENTED OR RESTATED FROM TIME TO TIME. THEREFORE, WE ARE DRAWING FOR CAD....., UNDER LETTER OF CREDIT NO BMT06972210S. PLEASE WIRE PROCEEDS TO: ....."
2. THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT FOR OUR ENDORSEMENT AND WILL BE RETURNED TO YOU UNLESS FULLY EXHAUSTED.

PRESENTATION OF YOUR DRAWING(S) UNDER THIS STANDBY LETTER OF CREDIT ARE RESTRICTED TO US. WE AGREE WITH YOU TO HONOR YOUR DRAWING(S) PRESENTED IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WHEN RECEIVED AT BANK OF MONTREAL, GLOBAL TRADE OPERATIONS, 250 YONGE STREET, 11TH FLOOR, TORONTO, ON M5B 2L7, ON OR BEFORE THE THEN CURRENT EXPIRATION DATE.



DRAWINGS BY FACSIMILE ARE PERMITTED. SUCH DRAWINGS (S) SHALL BE MADE TO FACSIMILE NUMBER 416-598-6075 (EACH SUCH DRAWING, A "FAX DRAWING"); PROVIDED, HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 416-598-6112. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS, AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL AND FINAL DRAWING THE ORIGINAL STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

THE AMOUNT OF THIS STANDBY LETTER OF CREDIT MAY ONLY BE REDUCED BY DRAWINGS ENDORSED HEREON OR AS ADVISED BY NOTICE IN WRITING TO US BY YOU.

TERMS OF THIS STANDBY LETTER OF CREDIT WILL CONTINUE UP TO NOVEMBER 19, 2024 AND WILL EXPIRE AT OUR COUNTERS ON THAT DATE AND YOU MAY CALL FOR PAYMENT OF THE FULL AMOUNT OUTSTANDING UNDER THIS LETTER OF CREDIT AT ANY TIME PRIOR TO THAT DATE SUBJECT TO THE FOLLOWING:

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR FROM THE PRESENT OR ANY FUTURE EXPIRY DATE HEREOF, UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO SUCH EXPIRY DATE, WE SEND YOU NOTICE IN WRITING BY REGISTERED MAIL OR COURIER, THAT WE ELECT NOT TO CONSIDER THIS STANDBY LETTER OF CREDIT TO BE RENEWABLE FOR AN ADDITIONAL PERIOD. UPON RECEIPT BY YOU OF SUCH NOTICE, YOU MAY DRAW HEREUNDER BY MEANS OF YOUR SIGNED DEMAND FOR PAYMENT CERTIFYING THAT THE AMOUNT DRAWN WILL BE RETAINED AND USED BY YOU TO MEET OBLIGATIONS INCURRED OR TO BE INCURRED UNDER THE LEASE AGREEMENT DATED MARCH 10, 2023 BETWEEN SIERRA REALTY CALGARY CORPORATION AS TENANT AND SIERRA WINDS BUSINESS PARK INC., AS LANDLORD FOR THE LEASE PREMISES DESCRIBED AS PLAN 1910413 BLOCK 1 LOT 1 AS MAY BE AMENDED, SUPPLEMENTED OR RESTATED FROM TIME TO TIME.

PARTIAL DRAWINGS ARE PERMITTED.

THIS LETTER OF CREDIT IS TRANSFERABLE ONE OR MORE TIMES, BUT IN EACH INSTANCE ONLY IN THE FULL AMOUNT AVAILABLE TO BE DRAWN UNDER THIS LETTER OF CREDIT AT THE TIME OF SUCH TRANSFER. ANY SUCH TRANSFER MAY BE EFFECTED ONLY THROUGH BANK OF MONTREAL, AND ONLY UPON PRESENTATION TO US AT OUR PRESENTATION OFFICE SPECIFIED HEREIN OF A DULY EXECUTED TRANSFER REQUEST IN THE FORM ATTACHED HERETO AS EXHIBIT "A", WITH INSTRUCTIONS THEREIN IN BRACKETS COMPLIED WITH, TOGETHER WITH THE ORIGINAL OF THIS LETTER OF CREDIT AND AMENDMENT(S) THERETO. EACH TRANSFER SHALL BE EVIDENCED BY OUR ENDORSEMENT ON THE REVERSE OF THE ORIGINAL OF THIS LETTER OF CREDIT, AND WE SHALL DELIVER SUCH ORIGINAL TO THE TRANSFEREE. THE TRANSFEREE'S NAME SHALL AUTOMATICALLY BE SUBSTITUTED FOR THAT OF THE BENEFICIARY WHEREVER SUCH BENEFICIARY'S NAME APPEARS WITHIN THIS LETTER OF CREDIT. NOTWITHSTANDING ANY OTHER TERMS HEREIN, A TRANSFER MUST COMPLY WITH ALL APPLICABLE LAWS, INCLUDING INTERNATIONAL TRADE SANCTIONS AND ANTI-MONEY LAUNDERING REGULATIONS.

THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 ("ISP98"), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590.



BANK OF MONTREAL

AUTHORIZED SIGNING OFFICER

Aloysiouse Palihakkarage Don

ORIGINAL



THIS IS AN INTEGRAL PART OF STANDBY LETTER OF CREDIT NO. BMT06972210S AND MUST BE ATTACHED THERETO.

EXHIBIT "A" - REQUEST FORM FOR FULL TRANSFER

(TRANSFER FORM TO BE PREPARED ON BENEFICIARY'S COMPANY LETTERHEAD)

DATE:

AMOUNT:

ISSUING BANK'S REFERENCE: BMT06972210S

FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY IRREVOCABLY TRANSFERS TO:

NAME OF TRANSFEREE:

ADDRESS OF TRANSFEREE:

OTHER TRANSFEREE INFORMATION:

ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY TO DRAW UNDER THE ABOVE LETTER OF CREDIT UP TO ITS AVAILABLE AMOUNT AS OF THE DATE OF THIS TRANSFER, AS SHOWN ABOVE.

BY THIS TRANSFER, ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY IN SUCH STANDBY LETTER OF CREDIT ARE TRANSFERRED TO THE TRANSFEREE, AND THE TRANSFEREE SHALL HAVE THE SOLE RIGHTS AS BENEFICIARY THEREOF, INCLUDING SOLE RIGHTS RELATING TO ANY AMENDMENTS NOW EXISTING OR HEREAFTER MADE. ALL AMENDMENTS ARE TO BE ADVISED DIRECTLY TO THE TRANSFEREE WITHOUT NECESSITY OF ANY CONSENT OR NOTICE TO THE UNDERSIGNED BENEFICIARY.

THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT IS RETURNED HERewith, TOGETHER WITH ANY AND ALL AMENDMENTS, AND WE ASK YOU TO TRANSFER THE LETTER OF CREDIT AND FORWARD IT DIRECTLY TO THE TRANSFEREE WITH YOUR NOTICE OF TRANSFER.

WE CERTIFY THAT THE TRANSFEREE HAS ACQUIRED BENEFICIARY'S RIGHTS AND OBLIGATIONS IN THE UNDERLYING RELATIONSHIP.

ENCLOSED IS OUR REMITTANCE OF CAD335.00 BEING TRANSFER FEE OF CAD300.00 PLUS CAD35.00 COURIER FEE IN PAYMENT OF YOUR TRANSFER COMMISSION, AND IN ADDITION THERETO WE AGREE TO PAY YOU ON DEMAND ANY EXPENSES WHICH MAY BE INCURRED BY YOU IN CONNECTION WITH THIS TRANSFER.

\_\_\_\_\_  
SIGNATURE AUTHENTICATION:

\_\_\_\_\_  
BENEFICIARY'S NAME AS PER L/C:



\_\_\_\_\_  
AUTHORISED SIGNATURE (S) OF BENEFICIARY:

\_\_\_\_\_  
SIGNATURE AUTHENTICATED BY:

(BANK OR NOTARY AUTHORIZED SIGNATURE NAME AND TITLE):

ORIGINAL

This is Exhibit “G” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

---

**From:** MacFarlane, Alex <AMacfarlane@blg.com>  
**Sent:** Wednesday, November 13, 2024 2:34 PM  
**To:** Rebecca Kennedy <Rkennedy@tgf.ca>; D. J. Miller <DJMiller@tgf.ca>; Sleeth, Jordan <jsleeth@deloitte.ca>  
**Cc:** Ramesh Nedadur (External) <ramesh.nedadur@sierrasc.com>; Rob Vanden Broek <rob.vandenbroek@sierrasc.com>; Shurabi Srikaruna <SSrikaruna@tgf.ca>; Ambachtsheer, Todd <tambachtsheer@deloitte.ca>; Robert J. Kennedy - Dentons (robert.kennedy@dentons.com) <robert.kennedy@dentons.com>; Gil, John1 <John1.Gil@bmo.com>; Lam, Sarah <sarah.lam@dentons.com>; Gillespie, Rachel <Rachel.Gillespie@bmo.com>; McGrath, Kevin A. <KMcGrath@blg.com>  
**Subject:** RE: [EXTERNAL]RE: EMS - payment to BMO

Rebecca, if you read my email closely I was not suggesting that course of action.

I don't understand your question with regard to "getting disclosure on a material issue to our restructuring?" as it relates to a beneficiary drawing down on an LC issued in its favour by the Bank at the request of Eastern Meat Solutions.

Happy to discuss if you would like. I free up after 4:30 today.

Regards.

Alex

### Alex MacFarlane

Partner, National Co-Chair of Insolvency and Restructuring Group

T 416.367.6305 | C 416 200 6320 | [AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

---

**From:** Rebecca Kennedy <Rkennedy@tgf.ca>  
**Sent:** Wednesday, November 13, 2024 2:23 PM  
**To:** MacFarlane, Alex <AMacfarlane@blg.com>; D. J. Miller <DJMiller@tgf.ca>; Sleeth, Jordan <jsleeth@deloitte.ca>  
**Cc:** Ramesh Nedadur (External) <ramesh.nedadur@sierrasc.com>; Rob Vanden Broek <rob.vandenbroek@sierrasc.com>; Shurabi Srikaruna <SSrikaruna@tgf.ca>; Ambachtsheer, Todd

<tambachtsheer@deloitte.ca>; Robert J. Kennedy - Dentons ([robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com))  
 <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Gil, John1 <[John1.Gil@bmo.com](mailto:John1.Gil@bmo.com)>; Lam, Sarah <[sarah.lam@dentons.com](mailto:sarah.lam@dentons.com)>; Gillespie, Rachel <[Rachel.Gillespie@bmo.com](mailto:Rachel.Gillespie@bmo.com)>; McGrath, Kevin A. <[KMcGrath@blg.com](mailto:KMcGrath@blg.com)>  
**Subject:** RE: [EXTERNAL]RE: EMS - payment to BMO

[External / Externe]

Alex,

Is it your suggestion that we should be issuing a Statement of Claim against our Lender and DIP Lender rather than getting disclosure on a material issue to our restructuring? It seems that we should discuss, if that is the case.

Rebecca

Rebecca Kennedy | [rkennedy@tgf.ca](mailto:rkennedy@tgf.ca) | Direct Line: 416-304-0603 | Thornton Grout Finnigan LLP | Suite 3200, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | Phone: 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)



Rebecca Kennedy | [Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca) | Direct Line +1 416 304 0603 | [www.tgf.ca](http://www.tgf.ca)

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**From:** MacFarlane, Alex <[AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)>  
**Sent:** Wednesday, November 13, 2024 2:04 PM  
**To:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; Sleeth, Jordan <[jsleeth@deloitte.ca](mailto:jsleeth@deloitte.ca)>  
**Cc:** Ramesh Nedadur (External) <[ramesh.nedadur@sierrascs.com](mailto:ramesh.nedadur@sierrascs.com)>; Rob Vanden Broek <[rob.vandenbroek@sierrascs.com](mailto:rob.vandenbroek@sierrascs.com)>; Rebecca Kennedy <[Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca)>; Shurabi Srikaruna <[SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca)>; Ambachtsheer, Todd <[tambachtsheer@deloitte.ca](mailto:tambachtsheer@deloitte.ca)>; Robert J. Kennedy - Dentons ([robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)) <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Gil, John1 <[John1.Gil@bmo.com](mailto:John1.Gil@bmo.com)>; Lam, Sarah <[sarah.lam@dentons.com](mailto:sarah.lam@dentons.com)>; Gillespie, Rachel <[Rachel.Gillespie@bmo.com](mailto:Rachel.Gillespie@bmo.com)>; McGrath, Kevin A. <[KMcGrath@blg.com](mailto:KMcGrath@blg.com)>  
**Subject:** [EXTERNAL]RE: EMS - payment to BMO

D.J. thanks for your email below. Regarding item # 1 we understand that BMO has sent to the Monitor directly a copy of the NON-RENEWAL NOTICE that was sent by BMO to Sierra Winds Business Park Inc., the beneficiary under the LC (the "Beneficiary"). We assume that the Monitor has forwarded the same to you.

With regard items #2 to #4 below, I must have missed the issuance of a Statement of Claim against BMO by Eastern Meat Solutions ("EMS"), as what you are requesting looks distinctly like a discovery request.

Our recommendation to EMS is that if it is of the opinion that the Beneficiary is fraudulently drawing on the LC, it should exercise its legal remedies, if any, as against the Beneficiary.

Best regards,

Alex

**Alex MacFarlane**

Partner, National Co-Chair of Insolvency and Restructuring Group

T 416.367.6305 | C 416 200 6320 | [AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

---

**From:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>  
**Sent:** Tuesday, November 12, 2024 4:57 PM  
**To:** MacFarlane, Alex <[AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)>; Gil, John1 <[John1.Gil@bmo.com](mailto:John1.Gil@bmo.com)>; Sleeth, Jorden <[jsleeth@deloitte.ca](mailto:jsleeth@deloitte.ca)>; Gillespie, Rachel <[Rachel.Gillespie@bmo.com](mailto:Rachel.Gillespie@bmo.com)>  
**Cc:** Ramesh Nedadur (External) <[ramesh.nedadur@sierrascs.com](mailto:ramesh.nedadur@sierrascs.com)>; Rob Vanden Broek <[rob.vandenbroek@sierrascs.com](mailto:rob.vandenbroek@sierrascs.com)>; Rebecca Kennedy <[Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca)>; Shurabi Srikaruna <[SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca)>; Ambachtsheer, Todd <[tambachtsheer@deloitte.ca](mailto:tambachtsheer@deloitte.ca)>; Robert J. Kennedy - Dentons ([robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)) <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Cross, Valerie <[valerie.cross@dentons.com](mailto:valerie.cross@dentons.com)>; Lam, Sarah <[sarah.lam@dentons.com](mailto:sarah.lam@dentons.com)>  
**Subject:** RE: EMS - payment to BMO

[External / Externe]

---

Hi Alex:

Referring to your email below regarding the letter of credit, can you please provide us with the following:

1. A copy of the notice of non-renewal that was sent to the beneficiary. (We only have the notice sent to EMS as the Applicant under the LC).
2. A copy of all communications received by BMO from the beneficiary, and all communications from BMO to the beneficiary.
3. When and to whom did the beneficiary advise that it would be making a partial draw on the LC? What details were discussed or communicated, either as to amount, timing or otherwise?
4. What did the beneficiary advise that it would be providing to BMO in support of a partial draw down? We understand that it does not have even a copy of the letter of credit to support any request and our client objects to any payment being made under the letter of credit that is not strictly in accordance with its terms.

We look forward to hearing from you.

Regards,

D.J.



D. J. Miller | | DJMiller@tgf.ca | Direct Line +1 416 304-0559 | | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca

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**From:** MacFarlane, Alex <AMacfarlane@blg.com>

**Sent:** November 12, 2024 12:03 PM

**To:** Gil, John1 <John1.Gil@bmo.com>; Sleeth, Jordan <jsleeth@deloitte.ca>; Gillespie, Rachel <Rachel.Gillespie@bmo.com>

**Cc:** Ramesh Nedadur (External) <ramesh.nedadur@sierrascs.com>; Rob Vanden Broek <rob.vandenbroek@sierrascs.com>; Rebecca Kennedy <Rkennedy@tgf.ca>; Shurabi Srikaruna <SSrikaruna@tgf.ca>; D. J. Miller <DJMiller@tgf.ca>; Ambachtsheer, Todd <tambachtsheer@deloitte.ca>; Robert J. Kennedy - Dentons (robert.kennedy@dentons.com) <robert.kennedy@dentons.com>; Cross, Valerie <valerie.cross@dentons.com>; Lam, Sarah <sarah.lam@dentons.com>

**Subject:** [EXTERNAL]RE: EMS - payment to BMO

Jordan, regarding the LC, the Beneficiary has reached out to BMO and has advised that it will be making a partial draw on the LC in accordance with its terms via fax.

BMO expects the draw to occur in the next day or two.

Best regards.

Alex

### Alex MacFarlane

Partner, National Co-Chair of Insolvency and Restructuring Group

T 416.367.6305 | C 416 200 6320 | [AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

**From:** Gil, John1 <John1.Gil@bmo.com>

**Sent:** Tuesday, November 12, 2024 11:58 AM

**To:** Sleeth, Jordan <jsleeth@deloitte.ca>; Gillespie, Rachel <Rachel.Gillespie@bmo.com>

**Cc:** Ramesh Nedadur (External) <ramesh.nedadur@sierrascs.com>; Rob Vanden Broek <rob.vandenbroek@sierrascs.com>; Rebecca Kennedy - TGF (rkennedy@tgf.ca) <rkennedy@tgf.ca>; Shurabi Srikaruna <SSrikaruna@tgf.ca>; D. J. Miller <djmiller@tgf.ca>; Ambachtsheer, Todd <tambachtsheer@deloitte.ca>; MacFarlane, Alex <AMacfarlane@blg.com>; Robert J. Kennedy - Dentons (robert.kennedy@dentons.com) <robert.kennedy@dentons.com>; Cross, Valerie <valerie.cross@dentons.com>; Lam, Sarah <sarah.lam@dentons.com>

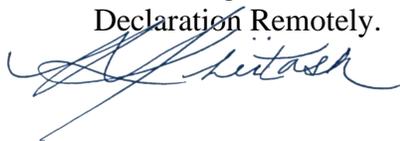
**Subject:** RE: EMS - payment to BMO

[External / Externe]

Hi Jordan – we are assembling the outstanding balances now and will revert shortly.

John

This is Exhibit “**H**” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

November 15, 2024

**VIA EMAIL**

**Borden Ladner Gervais LLP**  
22 Adelaide St W – Suite 3400  
Toronto, ON M5H 4E3

Attention: Alex MacFarlane

Dear Alex:

**Re: In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al (the “Applicants”) Court File No. CV-24-00720622-00CL (the “CCAA Proceeding”)**

We are counsel for the Applicants in the CCAA Proceeding. We write to you in your capacity as counsel for Bank of Montreal (“**BMO**”), the senior secured creditor of the Applicants and the debtor-in-possession lender in the CCAA Proceeding. We refer to the following:

- (i) the former Lease Agreement between Sierra Winds Business Park Inc. (“**SWBP**”) and Sierra Realty (Calgary) Corporation (“**Sierra Realty**”) dated as of March 10, 2023 (the “**Terminated Lease**”), which was terminated effective as of July 5, 2024 (the “**Effective Date**”) pursuant to a Notice to Disclaim delivered by Sierra Realty to SWBP on June 5, 2024 (the “**Disclaimer Notice**”); and
- (ii) the Standby Letter of Credit (BMTO697221OS) issued by BMO on November 20, 2023 at the request of Eastern Meat Solutions Inc. on behalf of Sierra Realty as the applicant (the “**LC**”) in respect of which SWBP is named as the beneficiary.

Sierra Realty originally entered into the Terminated Lease with a view to expanding operations to the Calgary market. As of the Effective Date, the construction of the building contemplated under the Terminated Lease (the “**Building**”) was not yet complete and therefore the term of the Terminated Lease (the “**Term**”) had not yet commenced. Sierra Realty has never – and will never – occupy the Building. Sierra Realty obtained the LC in anticipation of fulfilling certain security deposit obligations under the Terminated Lease. The LC was intended to secure Sierra Realty’s obligations under the Terminated Lease upon the commencement of the Term, if the Terminated Lease had come into effect. However, as the Terminated Lease was terminated prior to the commencement of the Term and the completion of construction of the Building, there was ultimately no need for Sierra Realty to proceed with delivering the LC to the intended beneficiary SWBP. Sierra Realty never disclosed the existence of the LC to SWBP, nor did it provide a copy of the LC to SWBP (whether as a form of security or otherwise).



Accordingly, Sierra Realty requested that BMO cancel the LC. Not only has BMO refused to do so, we understand that BMO recently advised SWBP (an existing client of BMO) of the existence of the LC through the delivery of a Notice of Non-Renewal, without the consent of Sierra Realty. We further understand that BMO is now considering taking steps to facilitate SWBP drawing upon the LC in respect of purported damages claimed by SWBP under the Terminated Lease.

We reiterate our, and our client's, verbal advice to you and to BMO that there is no legal or equitable basis upon which SWBP is entitled to draw upon the LC. Any steps taken by BMO or SWBP to make payment under the LC will be opposed and immediately brought before the Court in the CCAA Proceeding. The Applicants' recourse in that regard is not limited to pursuing the beneficiary for any improper attempt to draw under the LC.

As you are aware, any draws under the LC are expressly subject to the following two conditions: (i) the presentment of a beneficiary's certificate confirming that Sierra Realty has failed to fulfill its obligations under the Terminated Lease; and (ii) the presentment of an original of the LC (or a fax of the original LC in the event of a partial draw). Neither of these conditions have been satisfied or are capable of being satisfied for the following reasons.

### **No Obligations Under Terminated Lease**

As described above, the Disclaimer Notice was delivered on June 5, 2024, and the Effective Date of termination was July 5, 2024. SWBP did not take any steps to appeal or set aside the Disclaimer Notice, nor did it seek to exercise any rights or remedies prior to the Effective Date. The Terminated Lease has been terminated and Sierra Realty has no obligations of any nature or kind thereunder. There are therefore no obligations for the LC to secure. The rights of SWBP under the LC (if any) do not survive termination of the Terminated Lease and the LC does not secure any alleged post-termination damages claimed by SWBP (all of which remain unproven).

### **SWBP Is Not in Possession of LC**

Given that the Terminated Lease was terminated prior to the commencement of the Term and the completion of construction of the Building, Sierra Realty never disclosed the existence of the LC to SWBP, nor did it otherwise deliver the LC to SWBP as a form of security under the Terminated Lease. SWBP did not discover the existence of the LC until after the Effective Date. Since the LC was never disclosed, delivered, or presented by Sierra Realty to SWBP, the second condition under the LC has not been satisfied.

Permitting SWBP to draw upon the LC would not only be contrary to the terms of the LC, it could materially affect distributions to other stakeholders and cause the Applicants to incur unnecessary legal costs to recover funds that BMO will improperly advance under the LC. It would also put considerable strain on a corporate group already facing a severe liquidity crisis. We therefore reiterate our request that BMO not permit SWBP to draw upon the LC for the reasons set out herein. Any steps taken by BMO or SWBP to the contrary will be opposed and immediately brought before the Court in the CCAA Proceeding for determination.



Please provide us with a response setting out the position of BMO in respect of the LC by no later than November 19, 2024. We look forward to hearing from you.

Yours truly,

**Thornton Grout Finnigan LLP**

A handwritten signature in black ink, appearing to read 'Rebecca Kennedy', written over a faint, larger version of the same signature.

Rebecca L. Kennedy

cc: Client  
D.J. Miller and Adam Driedger, *Thornton Grout Finnigan LLP*  
Jordan Sleeth and Todd Ambachtscheer, *Deloitte Restructuring Inc.*  
Robert Kennedy and Valerie Cross, *Dentons Canada LLP*, counsel to the Monitor

This is Exhibit "I" to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

**From:** Wong, Brendan  
**Sent:** November 18, 2024 3:10 PM  
**To:** rkennedy@tgf.ca  
**Cc:** MacFarlane, Alex; djmiller@tgf.ca; adriedger@tgf.ca; SSrikaruna@tgf.ca; tambachtsheer@deloitte.ca; jsleeth@deloitte.ca; robert.kennedy@dentons.com; valerie.cross@dentons.com  
**Subject:** BMO re CCAA Proceedings of EMS - Letter of Credit  
**Attachments:** 2024 11 18 - Letter to R. Kennedy.pdf

Dear Ms. Kennedy,

Please see the attached response to your letter of November 15, 2024 and the email received earlier today from Ms. Srikaruna.

Yours truly,

**Brendan Wong**

Partner

Pronouns: He/His/Him

T 416.367.6743 | [bwong@blg.com](mailto:bwong@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

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Borden Ladner Gervais LLP

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**Brendan Wong**  
T: 416-367-6743  
bwong@blg.com

Borden Ladner Gervais LLP  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto ON M5H 4E3  
Canada  
T 416-367-6000  
F 416-367-6749  
blg.com



November 18, 2024

**DELIVERED BY EMAIL – rkennedy@tgf.ca**

Rebecca L. Kennedy  
Thornton Grout Finnigan LLP  
Toronto-Dominion Centre  
Suite 3200, P.O. Box 329  
Toronto, ON M5K 1K7

Dear Ms. Kennedy,

**Re: In the Matter of the CCAA Proceedings of Eastern Meat Solutions Inc., et al. (the "Applicants") – Court File No. CV-24-00720622-00CL (the "CCAA Proceeding")**

I am in receipt of your letter dated November 15, 2024 addressed to Alex MacFarlane (copied). Capitalized terms used in your letter will be used in this letter. I am also in receipt of the email from Shurabi Srikaruna of your office to Mr. MacFarlane of today's date at 11:55 a.m.

BMO intends to assess and make payment on the LC (Standby Letter of Credit (BMTO6972210S) issued on November 20, 2023) in the ordinary course. As set out in Mr. MacFarlane's email to you dated October 12, 2024, BMO considers the LC to be binding upon it. Sierra Realty (Calgary) Corporation's ("**Sierra Realty**") dispute with Sierra Winds Business Park Inc. ("**SWBP**") is of no relevance to BMO's determination regarding payment. As stated by the Court of Appeal in *Universal Stainless Steel & Allows Inc. v. JP Morgan Chase Bank*, [2009] O.J. No. 4831 (C.A.) at para. 41:

The cardinal rule concerning letters of credit is the autonomy principle, sometimes referred to as the independence principle: Christopher Leon, "Letters of Credit: A Primer" (1986) 45 Md. L. Rev. 432 at 442. Letters of credit are to be entirely autonomous and divorced from the underlying transactions to which they relate. As alluded to above, letters of credit are obtained to provide the beneficiary with a secure source of payment that cannot be held up or otherwise delayed because of disputes concerning the underlying subject matter of the transaction. If a demand for payment is made that complies with the terms of the letter of credit, the issuing bank is, subject to limited exceptions, required to honour the credit.

I also remind you that s.4 of the Application for Standby Letter of Credit / Demand Guarantee dated July 31, 2023, executed by Eastern Meat Solutions Inc. ("**EMS**") states at s.4d.:

**Limited Nature of Bank Obligations.** The Applicant fully understands and agrees that BMO's sole obligation to the Applicant shall be limited to honoring requests for payment made under and in compliance with the terms of the instrument, and BMO's obligations remain so limited even if BMO or another Bank Related Party may have assisted in the preparation of the wording of the Instrument or any Documents required to be presented thereunder or may

otherwise be aware of the underlying transaction giving rise to the Instrument and this Agreement.

During a call on Friday November 15, 2024 that included Mr. MacFarlane, your partner D.J. Miller stated, for the first time, that SWBP's draw request was fraudulent and although not specifically stated by EMS previously in its communications with BMO that fraud may be "implied". The comments were made in broad terms with no specifics or evidence to substantiate them. However, your letter of same date is silent regarding any fraud. Allegations of fraud should not be made lightly. Absent the immediate receipt of evidence of fraud from you, or some other reasonable basis to believe there has been a fraud relating to the LC, BMO will be disregarding the aforesaid comment made during the call on Friday.

The Monitor and EMS have been aware since November 12, 2014, after BMO sent the Non-Renewal Notice to SWBP, that a draw on the LC was a distinct possibility. On that same date, the Monitor and EMS were advised that SWBP had reached out to BMO and advised that it would be making a partial draw on the LC in accordance with its terms via fax and that BMO expected the draw to occur in the next day or two.

One would have thought that if EMS and/or the Monitor were of the opinion that there was a serious impropriety of SWBP drawing on the LC, e.g. there was the potential of a fraud being perpetrated by SWBP by drawing on the LC, that either EMS and/or the Monitor would have availed themselves to use the existing CCAA proceedings as forum to obtain whatever relief they determined would be appropriate or necessary in the circumstances as against SWBP.

BMO received a request for a draw of \$1,495,000 by facsimile from SWBP on November 13, 2024. At the time of this letter, BMO has not determined that there yet exists a request compliant with the terms and conditions of the LC. This does not prohibit such a determination in the future, prior to the expiry of the LC.

Yours truly,

**BORDEN LADNER GERVAIS LLP**



Brendan Wong

BYBW/sr

cc. Alex MacFarlane, *Borden Ladner Gervais LLP*  
D.J. Miller, Adam Driedger, and Shurabi Srikaruna, *Thornton Grout Finnigan LLP*  
Jordan Sleeth and Todd Ambachtscheer, *Deloitte Restructuring Inc.*  
Robert Kennedy and Valerie Cross, *Dentons Canada LLP*, counsel to the Monitor

This is Exhibit “**J**” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

November 19, 2024

**VIA EMAIL**

**Borden Ladner Gervais LLP**  
22 Adelaide St W – Suite 3400  
Toronto, ON M5H 4E3

Attention: Alex MacFarlane and Brendan Wong

Dear Sirs:

**Re: In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al (the “Applicants”) Court File No. CV-24-00720622-00CL (the “CCAA Proceeding”)**

We are counsel for the Applicants in the CCAA Proceeding. We refer to our letter dated November 15, 2024 (the “**November 15 Letter**”).<sup>1</sup>

We acknowledge receipt of your letter dated November 18, 2024, regarding the Standby Letter of Credit BMTO6972210S (the “**LC**”). We agree with the principle set out by the Court of Appeal in *Universal Stainless Steel & Allows Inc. v. JP Morgan Chase Bank*, 2009 O.J. No. 4831 (C.A.) at para. 41, namely that an issuing bank must honour a demand for payment **that complies with the terms of the LC**, subject only to limited exceptions. Our position is simply that: (i) any demand for payment purportedly presented by the beneficiary under this LC cannot comply with the terms of the LC; and (ii) fraud is a recognized exception to the principle of autonomy in letters of credit.

We maintain that any draw request submitted by SWBP on November 13, 2024, cannot comply with the terms of the LC and constitutes a clear attempt on the beneficiary under the LC to fraudulently draw on the LC. That said, neither the Applicants nor its advisors have been able to review the draw request in order to provide you with further particulars, as, despite our repeated requests for information including a copy of all such communications in respect of the LC, Bank of Montreal (the “**Bank**”) has refused to provided the Applicant under the LC with a copy of the draw request referred to in your letter.

**In order to preserve the Applicant’s ability to seek relief with respect to the fraudulent draw request in the CCAA Proceeding, we hereby demand a copy of the facsimile draw request**

---

<sup>1</sup> Capitalized terms not otherwise defined in this letter have the meanings given to them in the November 15 Letter.



**submitted to the Bank on November 13, 2024 (and any related documentation) to be delivered via email, forthwith.**

### **Particulars of the Attempted Fraudulent Draw**

Fraud in the context of a Letter of Credit involves the presentation of false documents to the issuer of the credit, often containing knowingly false representations that the beneficiary is entitled to make a demand.

In response to your request for particulars of the fraud, it is difficult to outline all of the particulars of the beneficiary's attempted fraudulent efforts to draw on the LC, given that we continue to be deprived of the requested documents from the Bank. That said, we are left in the position of having to assume that the draw request attempts to satisfy the specific draw requirements outlined in the LC. For the particulars that follow, any such attempt would be a fraudulent attempt by SWBP to draw on the LC.

### **The Conditions to draw on the LC**

As outlined in our November 15 Letter, and as repeatedly outlined in calls with your office and the Bank prior to the issuance of the Notice of Non-Renewal, the terms of the LC specifically require the following two documents to be presented in order to demand under the LC:

1. A beneficiary's certificate confirming that Sierra Realty has failed to fulfill its obligations under the Terminated Lease.
2. The presentment of the original LC, or a facsimile of the original in the case of a partial draw.

SWBP has not satisfied, and cannot satisfy, either of these conditions. Any document that is presented to the Bank by SWBP purportedly to satisfy the above conditions would contain false representations as the conditions cannot be met.

### **Certificate with respect to the Terminated Lease**

First, any purported draw that certifies that Sierra Realty has defaulted under the Terminated Lease is based on fraudulent misrepresentations concerning the underlying transaction, including obligations under the Terminated Lease, which never commenced and in respect of which the "Term" never came into effect. SWBP confirmed via email to the Applicants on February 28, 2024, that there was no deal and only "if a deal proceeds" once a "new deal was in place" would amounts be credited against a Security Deposit. This "new deal" never materialized. As the Bank was advised, the LC was never delivered to the beneficiary as the underlying basis for its issuance never materialized.



Out of an abundance of caution, and to prevent any mischief arising from the beneficiary under the LC, as part of the CCAA Proceedings, Sierra Realty issued a notice to disclaim the Terminated Lease on June 5, 2024, ensuring that no obligations could arise under its terms. The beneficiary did not contest the disclaimer, nor did it attempt to draw on the LC as part of that process. The Terminated Lease was previously unequivocally terminated via mutual agreement set out above, and such termination was confirmed by the disclaimer in the CCAA proceedings.

Second, even if the Terminated Lease was at any point in effect, which the Applicants expressly deny, the Terminated Lease itself required that any legitimate draw under the LC must be made either prior to or during the “Term” of the Terminated Lease. However, given the disclaimer and the terms of the document, no such Term exists. As a result, the November 13, 2024, draw attempt cannot occur “during” or “prior to” the lease term, rendering the request wholly invalid.

Therefore, any documentation that is presented to the Bank which certifies that the draw is being made with respect to the Terminated Lease contains false representations regarding the obligations of Sierra Realty under the Terminated Lease that the beneficiary knew were false at the time of their presentation to the Bank.

#### The Original LC

Third, as previously outlined, SWBP has never been in possession of the original LC. When the original discussions as reflected in the Terminated Lease terminated, the LC was not delivered to the beneficiary. Any documents presented to the Bank by SWBP, including any purported copies of the original LC, are false and do not reflect SWBP’s possession of the LC. The original LC is in the possession of the Applicant’s counsel.

#### The Amount of the Partial Draw

The request for a “partial draw” (as referenced in your email communication) of \$1,495,000 by facsimile from SWBP on November 13, 2024, raises significant concerns. The amount is not accidental and reflects a further attempt to perpetrate a fraud in an effort to draw under the LC. The amount was chosen to fall just under the \$1,500,000 maximum limit of the LC so that it could be referred to as a “partial draw”, allowing presentation to be made via facsimile and without the requirement to surrender the original LC. This represents a clear attempt to circumvent the requirement of SWBP to be in possession of the original LC for presentation.

There is no plausible scenario in which SWBP could have independently determined this monetary threshold or have been aware of the terms of the LC. Moreover, the “Notice of Non-Renewal” issued by the Bank to the beneficiary on October 9, 2024, did not include the amount of the LC. It is particularly important that we receive copies of the communications between the beneficiary and the Bank, given this concern. Your letter of November 18, 2024 cites the following from s. 4 of the Application for Standby Letter of Credit dated July 31, 2023:



**Limited Nature of Bank Obligations.** The Applicant fully understands and agrees that BMO’s sole obligation to the Applicant shall be limited to honoring requests for payment made under and in compliance with the terms of the instrument, and BMO’s obligations remain so limited even if BMO or another Bank Related Party may have assisted in the preparation of the wording of the Instrument or any Documents required to be presented thereunder or may otherwise be aware of the underlying transaction giving rise to the Instrument and this Agreement.

It is not clear as to the purpose of including that portion of the Application. What is clear is that the reference to any assistance that the Bank may have provided “in the preparation of the wording of the Instrument or any Documents required to be presented thereunder...” is to counter a *contra proferentem* argument that may be raised, due to the Bank’s involvement when the terms of the LC and accompanying documents are being negotiated at the outset – **prior to** the actual issuance of the LC. The provision has no application to the current situation where a demand under an LC is being made to the Bank in circumstances where the beneficiary has no legal right to make a demand, and no information or documents in its possession to support a demand in order to comply with the terms of the LC.

The Applicant also states that there is no factual or legal justification for the specific amount requested, which further highlights the suspicious and fraudulent nature of the draw attempt. The beneficiary never delivered a notice of default or any form of demand under the Terminated Lease. The Applicant under the LC knows of no juristic reason that the LC could be drawn upon by the beneficiary. It is the Applicant’s position that any attempted draw is based on false representations that the beneficiary knows were false at the time such representations were made to the Bank.

### **Next Steps**

The Applicant under the LC intends to seek relief as part of the CCAA proceedings in respect of which it is an Applicant. The inability to obtain information and details from the Bank regarding the beneficiary’s attempts to draw under the LC have directly affected our client’s ability to do so.

We repeat our demand contained herein for a complete copy of the November 13, 2024, draw request and all supporting documents submitted to the Bank by SWBP.

The facts and circumstances clearly demonstrate that SWBP’s demand for payment is unsupported and fraudulent.

We would like to highlight that there is a distinction between the Bank’s lack of duty to inquire into the underlying transaction and its obligation to address issues of authenticity or fraudulent misrepresentation. The fact that the Bank agreed not to inquire into the underlying transaction does not mean that the Bank must allow the draw even if it has knowledge of fraud.



This constitutes notice to the Bank that if a draw by the beneficiary is honoured by the Bank, the Bank may also be liable to the Applicant, as they have been made aware of the potential fraud.

The Applicants are trying to avoid the impact of a fraudulent transaction in the context of this restructuring and on the Bank. The Bank has been on notice of the Applicant's position in that regard for some time.

Our client expects the Bank to deny any draw request, at least until its concerns regarding fraud and non-compliance have been fully addressed in the CCAA Proceedings.

Yours truly,

**Thornton Grout Finnigan LLP**

A handwritten signature in black ink, appearing to read 'Rebecca Kennedy'. The signature is written in a cursive, flowing style.

Rebecca L. Kennedy

cc: Robert Vanden Broek and Ramesh Nedadur, *Eastern Meat Solutions Inc.*  
D.J. Miller and Shurabi Srikaruna, *Thornton Grout Finnigan LLP*  
Jordan Sleeth and Todd Ambachtscheer, *Deloitte Restructuring Inc.*  
Robert Kennedy and Valerie Cross, *Dentons Canada LLP*, counsel to the Monitor

This is Exhibit “**K**” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

  
A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

**From:** Wong, Brendan  
**Sent:** November 19, 2024 2:34 PM  
**To:** Rebecca Kennedy  
**Cc:** D. J. Miller; Shurabi Srikaruna; MacFarlane, Alex  
**Subject:** RE: In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit [IMAN-CLIENT.FID190696]  
**Attachments:** Facsimile Draw Request.pdf

Dear Ms. Kennedy,

We are in receipt of your letter of today's date. While BMO has no obligation to provide you with SWBP's draw request, in the circumstances BMO has determined it is appropriate to provide you with a copy, which is attached. I note this is only being emailed to you as counsel for Eastern Meat Solutions Inc.

We make no comment at this time regarding the balance of your letter, including but not limited to the allegations of fraud, and our absence of comments regarding this should not be taken as accepting them in any way. To be clear, any allegations of fraud should be made to a court of competent jurisdiction. While BMO will uphold its legal obligations in reviewing draw requests, it will not adjudicate upon the fraud alleged by your client.

Yours truly,

## **Brendan Wong**

**Partner**

**Pronouns: He/His/Him**

T 416.367.6743 | [bwong@blg.com](mailto:bwong@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

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---

**From:** Shurabi Srikaruna <SSrikaruna@tgf.ca>  
**Sent:** Tuesday, November 19, 2024 10:46 AM  
**To:** MacFarlane, Alex <AMacfarlane@blg.com>; Wong, Brendan <bwong@blg.com>  
**Cc:** D. J. Miller <DJMiller@tgf.ca>; Rebecca Kennedy <Rkennedy@tgf.ca>; Ramesh Nedadur <Ramesh.Nedadur@sierrascs.com>; Rob Vanden Broek <Rob.VandenBroek@sierrascs.com>; Sleeth, Jorden <jsleeth@deloitte.ca>; Todd Ambachtsheer <tambachtsheer@deloitte.ca>; Cross, Valerie <valerie.cross@dentons.com>; Kennedy, Robert <robert.kennedy@dentons.com>  
**Subject:** In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit [IMAN-CLIENT.FID190696]

**[External / Externe]**

---

Good morning,

Please see the attached response to your letter dated November 18, 2024.

Regards,  
Shurabi



Shurabi Srikaruna | Associate | [SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca) | Direct Line +1 416-304-1011 || Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)

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 \*\*\* FAX TX REPORT \*\*\*  
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## TRANSMISSION OK

JOB NO.	0621
DESTINATION ADDRESS	14165986076
SUBADDRESS	
DESTINATION ID	
ST. TIME	11/13 12:00
TX/RX TIME	00' 28
PGS.	1
RESULT	OK



Bank of Montreal  
 Global Trade Operations  
 250 Yonge St., 11<sup>th</sup> Floor  
 Toronto, ON, M5B 2L7  
 Tel: 416 598-6112  
 Fax: 416 598-6076

Re: Irrevocable Standby Letter of Credit No.: BMT0697221OS  
 Applicant: Eastern Meat Solutions Inc.

Date: November 10, 2024

RE: Standby Letter of Credit Amount: \$1,500,000

Issuing bank's reference: BMT0697221OS

Woolsey Equities Inc., a subsidiary of York Realty Inc. and Beneficiary under this letter of credit facility pursuant to the attached request form for full transfer, hereby requests a draw under the above-referenced Letter of credit as follows:

The tenant Sierra Realty Calgary Corporation has failed to fulfill its obligations pursuant to the Lease Agreement entered into between Sierra Realty Calgary Corporation as Tenant and Sierra Winds Business Park Inc., as Landlord for the Leased Premises described as Plan 1910413 Block 1 Lot 1 dated March 10, 2023, as may be amended, supplemented or restated from time to time. Therefore, we are drawing for CAD1,495,000.00, under letter of credit No. BMT0697221OS. Please Wire proceeds to:

**Receiving Bank:** Bank of Montreal Head Office, Montreal SWIFT BIC code: BOFMCAM2

**Beneficiary Bank (field 57):** Bank of Montreal, 10185 - 101 ST NW, Edmonton, AB, T5J 0H4

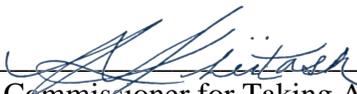
**Canadian Clearing Code:** CC0001

**Beneficiary (field 59):** Account Number - 00141947724; Woolsey Equities Inc., Canada, 10303 Jasper Avenue NW, Suite 1600, Edmonton, AB, T5J 3N6

Signature authentication: *Ryan Veix, VP Accounting*

Beneficiary's name as per L/C: WOOLSEY EQUITIES INC.

This is Exhibit “L” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

  
A Commissioner for Taking Affidavits, etc.  
**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026

**Richardson, Sheida**

---

**From:** Wong, Brendan  
**Sent:** November 20, 2024 11:09 AM  
**To:** Rebecca Kennedy  
**Cc:** D. J. Miller; Shurabi Srikaruna; MacFarlane, Alex  
**Subject:** RE: In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit [IMAN-CLIENT.FID190696]

Dear Ms. Kennedy,

Further to our recent correspondence, this email is to inform you that BMO received yesterday afternoon a draw request compliant with the terms of the LC. BMO expects to make payment in response to the request within 48 hours.

Yours truly,

**Brendan Wong**

Partner

Pronouns: He/His/Him

T 416.367.6743 | [bwong@blg.com](mailto:bwong@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

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---

**From:** Wong, Brendan <[bwong@blg.com](mailto:bwong@blg.com)>  
**Sent:** Tuesday, November 19, 2024 2:34 PM  
**To:** Rebecca Kennedy <[Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca)>  
**Cc:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; Shurabi Srikaruna <[SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca)>; MacFarlane, Alex <[AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)>  
**Subject:** RE: In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit [IMAN-CLIENT.FID190696]

Dear Ms. Kennedy,

We are in receipt of your letter of today's date. While BMO has no obligation to provide you with SWBP's draw request, in the circumstances BMO has determined it is appropriate to provide you with a copy, which is attached. I note this is only being emailed to you as counsel for Eastern Meat Solutions Inc.

We make no comment at this time regarding the balance of your letter, including but not limited to the allegations of fraud, and our absence of comments regarding this should not be taken as accepting them in any way. To be clear, any allegations of fraud should be made to a court of competent jurisdiction. While BMO will uphold its legal obligations in reviewing draw requests, it will not adjudicate upon the fraud alleged by your client.

Yours truly,

**Brendan Wong**

Partner

Pronouns: He/His/Him

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**From:** Shurabi Srikaruna <[SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca)>**Sent:** Tuesday, November 19, 2024 10:46 AM**To:** MacFarlane, Alex <[AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)>; Wong, Brendan <[bwong@blg.com](mailto:bwong@blg.com)>

**Cc:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; Rebecca Kennedy <[Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca)>; Ramesh Nedadur <[Ramesh.Nedadur@sierrascs.com](mailto:Ramesh.Nedadur@sierrascs.com)>; Rob Vanden Broek <[Rob.VandenBroek@sierrascs.com](mailto:Rob.VandenBroek@sierrascs.com)>; Sleeth, Jorden <[jsleeth@deloitte.ca](mailto:jsleeth@deloitte.ca)>; Todd Ambachtsheer <[tambachtsheer@deloitte.ca](mailto:tambachtsheer@deloitte.ca)>; Cross, Valerie <[valerie.cross@dentons.com](mailto:valerie.cross@dentons.com)>; Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>

**Subject:** In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit [IMAN-CLIENT.FID190696]

**[External / Externe]**

Good morning,

Please see the attached response to your letter dated November 18, 2024.

Regards,

Shurabi



Shurabi Srikaruna | Associate | [SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca) | Direct Line +1 416-304-1011 || Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)

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This is Exhibit “M” to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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**Nikki Kheiritash**

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**Richardson, Sheida**

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**From:** Wong, Brendan  
**Sent:** November 20, 2024 11:39 AM  
**To:** Rebecca Kennedy  
**Cc:** D. J. Miller; Shurabi Srikaruna; MacFarlane, Alex  
**Subject:** RE: [EXTERNAL]RE: In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit  
**Attachments:** 2024 11 19 - Facsimile Draw Request.pdf

Dear Ms. Kennedy,

I attach a copy of the facsimile draw request received yesterday.

I reiterate the statement in my email of yesterday's date that BMO makes no comment on the balance of your correspondence.

Yours truly,

**Brendan Wong**

Partner

Pronouns: He/His/Him

T 416.367.6743 | [bwong@blg.com](mailto:bwong@blg.com)

Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

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---

**From:** Rebecca Kennedy <[Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca)>  
**Sent:** Wednesday, November 20, 2024 11:12 AM  
**To:** Wong, Brendan <[bwong@blg.com](mailto:bwong@blg.com)>  
**Cc:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; Shurabi Srikaruna <[ssrikaruna@tgf.ca](mailto:ssrikaruna@tgf.ca)>; MacFarlane, Alex <[AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)>  
**Subject:** RE: [EXTERNAL]RE: In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit

[External / Externe]

---

Brendan,

Please immediately forward the new draw request. It is surprising that we need to request this given our allegations of fraud.

Rebecca

Rebecca Kennedy | [rkennedy@tgf.ca](mailto:rkennedy@tgf.ca) | Direct Line: 416-304-0603 | Thornton Grout Finnigan LLP | Suite 3200, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | Phone: 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)



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### Brendan Wong

Partner

Pronouns: He/His/Him

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Partner

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**Sent:** Tuesday, November 19, 2024 10:46 AM

**To:** MacFarlane, Alex <[AMacfarlane@blg.com](mailto:AMacfarlane@blg.com)>; Wong, Brendan <[bwong@blg.com](mailto:bwong@blg.com)>

**Cc:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; Rebecca Kennedy <[Rkennedy@tgf.ca](mailto:Rkennedy@tgf.ca)>; Ramesh Nedadur <[Ramesh.Nedadur@sierrascs.com](mailto:Ramesh.Nedadur@sierrascs.com)>; Rob Vanden Broek <[Rob.VandenBroek@sierrascs.com](mailto:Rob.VandenBroek@sierrascs.com)>; Sleeth, Jorden <[jsleeth@deloitte.ca](mailto:jsleeth@deloitte.ca)>; Todd Ambachtsheer <[tambachtsheer@deloitte.ca](mailto:tambachtsheer@deloitte.ca)>; Cross, Valerie <[valerie.cross@dentons.com](mailto:valerie.cross@dentons.com)>; Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>

**Subject:** In the Matter of the CCAA Proceeding of Eastern Meat Solutions Inc. et al - Letter of Credit [IMAN-CLIENT.FID190696]

[External / Externe]

Good morning,

Please see the attached response to your letter dated November 18, 2024.

Regards,

Shurabi



Shurabi Srikaruna | Associate | [SSrikaruna@tgf.ca](mailto:SSrikaruna@tgf.ca) | Direct Line +1 416-304-1011 || Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)

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Bank of Montreal  
 Global Trade Operations  
 250 Yonge St., 11<sup>th</sup> Floor  
 Toronto, ON, M5B 2L7  
 Tel: 416 598-6112  
 Fax: 416 598-6076

Re: Irrevocable Standby Letter of Credit No.: BMT0697221OS  
 Applicant: Eastern Meat Solutions Inc., on behalf of Sierra Realty Calgary Corporation

Date: November 19, 2024

RE: Standby Letter of Credit Amount: CAD1,500,000.00

Issuing bank's reference: BMT0697221OS

The tenant Sierra Realty Calgary Corporation has failed to fulfill its obligations pursuant to the Lease Agreement entered into between Sierra Realty Calgary Corporation as Tenant and Sierra Winds Business Park Inc., as Landlord for the Lease Premises described as Plan 1910413 Block 1 Lot 1 dated March 10, 2023, as may be amended, supplemented or restated from time to time. Therefore, we are drawing for CAD1,495,000.00, under letter of credit No. BMT0697221OS. Please Wire proceeds to:

**Receiving Bank:** Bank of Montreal Head Office, Montreal SWIFT BIC code: BOFMCAM2

**Beneficiary Bank (field 57):** Bank of Montreal, 10185 – 101 ST NW, Edmonton, AB, T5J 0H4

**Canadian Clearing Code:** CC0001

**Beneficiary (field 59):** Account Number - 00141947724; Woolsey Equities Inc., Canada, 10303 Jasper Avenue NW, Suite 1600, Edmonton, AB, T5J 3N6

Beneficiary: WOOLSEY EQUITIES INC.

Authorised Signature(s) of Beneficiary:

A handwritten signature in black ink, appearing to be initials or a stylized name, written over a horizontal line.



**Bank of Montreal**  
250 Yonge St., 11th Floor  
Toronto, ON M5B 2L7  
Tel: 416 598-6112  
Fax: 416 598-6076  
SWIFT: BOFMCAT2

**Irrevocable  
Standby Letter of Credit No.: BMT06972210S**

ISSUE DATE: NOVEMBER 20, 2023  
EXPIRY DATE: NOVEMBER 19, 2024

BENEFICIARY:  
SIERRA WINDS BUSINESS PARK INC.,  
#1600, 10303 JASPER AVENUE NW,  
EDMONTON, AB T5J 3N6

APPLICANT:  
EASTERN MEAT SOLUTIONS INC., ON BEHALF OF SIERRA REALTY CALGARY CORPORATION,  
5090 EXPLORER DRIVE,  
SUITE 203, MISSISSAUGA,  
ONTARIO, L4W 4T9

AMOUNT: ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00).

WE HEREBY AUTHORIZE YOU TO DRAW ON BANK OF MONTREAL, GLOBAL TRADE OPERATIONS, 250 YONGE STREET, 11TH FLOOR, TORONTO, ON M5B 2L7, FOR THE ACCOUNT OF EASTERN MEAT SOLUTIONS INC. ON BEHALF OF SIERRA REALTY CALGARY CORPORATION UP TO AN AGGREGATE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00), AVAILABLE WITH OURSELVES, ON DEMAND, BY PAYMENT, AGAINST PRESENTATION OF THE DOCUMENT(S) DETAILED HEREIN.

1. BENEFICIARY'S CERTIFICATE, ON ITS LETTERHEAD, COMPLETED, DATED AND PURPORTEDLY SIGNED BY AN AUTHORIZED INDIVIDUAL STATING:  
"THE TENANT SIERRA REALTY CALGARY CORPORATION HAS FAILED TO FULFILL ITS OBLIGATIONS PURSUANT TO THE LEASE AGREEMENT ENTERED INTO BETWEEN SIERRA REALTY CALGARY CORPORATION AS TENANT AND SIERRA WINDS BUSINESS PARK INC., AS LANDLORD FOR THE LEASE PREMISES DESCRIBED AS PLAN 1910413 BLOCK 1 LOT 1 DATED MARCH 10, 2023, AS MAY BE AMENDED, SUPPLEMENTED OR RESTATED FROM TIME TO TIME. THEREFORE, WE ARE DRAWING FOR CAD....., UNDER LETTER OF CREDIT NO BMT06972210S. PLEASE WIRE PROCEEDS TO: ....."

2. THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT FOR OUR ENDORSEMENT AND WILL BE RETURNED TO YOU UNLESS FULLY EXHAUSTED.

PRESENTATION OF YOUR DRAWING(S) UNDER THIS STANDBY LETTER OF CREDIT ARE RESTRICTED TO US. WE AGREE WITH YOU TO HONOR YOUR DRAWING(S) PRESENTED IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WHEN RECEIVED AT BANK OF MONTREAL, GLOBAL TRADE OPERATIONS, 250 YONGE STREET, 11TH FLOOR, TORONTO, ON M5B 2L7, ON OR BEFORE THE THEN CURRENT EXPIRATION DATE.



DRAWINGS BY FACSIMILE ARE PERMITTED. SUCH DRAWINGS (S) SHALL BE MADE TO FACSIMILE NUMBER 416-598-6075 (EACH SUCH DRAWING, A "FAX DRAWING"); PROVIDED, HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 416-598-6112. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS, AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL AND FINAL DRAWING THE ORIGINAL STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

THE AMOUNT OF THIS STANDBY LETTER OF CREDIT MAY ONLY BE REDUCED BY DRAWINGS ENDORSED HEREON OR AS ADVISED BY NOTICE IN WRITING TO US BY YOU.

TERMS OF THIS STANDBY LETTER OF CREDIT WILL CONTINUE UP TO NOVEMBER 19, 2024 AND WILL EXPIRE AT OUR COUNTERS ON THAT DATE AND YOU MAY CALL FOR PAYMENT OF THE FULL AMOUNT OUTSTANDING UNDER THIS LETTER OF CREDIT AT ANY TIME PRIOR TO THAT DATE SUBJECT TO THE FOLLOWING:

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR FROM THE PRESENT OR ANY FUTURE EXPIRY DATE HEREOF, UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO SUCH EXPIRY DATE, WE SEND YOU NOTICE IN WRITING BY REGISTERED MAIL OR COURIER, THAT WE ELECT NOT TO CONSIDER THIS STANDBY LETTER OF CREDIT TO BE RENEWABLE FOR AN ADDITIONAL PERIOD. UPON RECEIPT BY YOU OF SUCH NOTICE, YOU MAY DRAW HEREUNDER BY MEANS OF YOUR SIGNED DEMAND FOR PAYMENT CERTIFYING THAT THE AMOUNT DRAWN WILL BE RETAINED AND USED BY YOU TO MEET OBLIGATIONS INCURRED OR TO BE INCURRED UNDER THE LEASE AGREEMENT DATED MARCH 10, 2023 BETWEEN SIERRA REALTY CALGARY CORPORATION AS TENANT AND SIERRA WINDS BUSINESS PARK INC., AS LANDLORD FOR THE LEASE PREMISES DESCRIBED AS PLAN 1910413 BLOCK 1 LOT 1 AS MAY BE AMENDED, SUPPLEMENTED OR RESTATED FROM TIME TO TIME.

PARTIAL DRAWINGS ARE PERMITTED.

THIS LETTER OF CREDIT IS TRANSFERABLE ONE OR MORE TIMES, BUT IN EACH INSTANCE ONLY IN THE FULL AMOUNT AVAILABLE TO BE DRAWN UNDER THIS LETTER OF CREDIT AT THE TIME OF SUCH TRANSFER. ANY SUCH TRANSFER MAY BE EFFECTED ONLY THROUGH BANK OF MONTREAL, AND ONLY UPON PRESENTATION TO US AT OUR PRESENTATION OFFICE SPECIFIED HEREIN OF A DULY EXECUTED TRANSFER REQUEST IN THE FORM ATTACHED HERETO AS EXHIBIT "A", WITH INSTRUCTIONS THEREIN IN BRACKETS COMPLIED WITH, TOGETHER WITH THE ORIGINAL OF THIS LETTER OF CREDIT AND AMENDMENT(S) THERETO. EACH TRANSFER SHALL BE EVIDENCED BY OUR ENDORSEMENT ON THE REVERSE OF THE ORIGINAL OF THIS LETTER OF CREDIT, AND WE SHALL DELIVER SUCH ORIGINAL TO THE TRANSFEREE. THE TRANSFEREE'S NAME SHALL AUTOMATICALLY BE SUBSTITUTED FOR THAT OF THE BENEFICIARY WHEREVER SUCH BENEFICIARY'S NAME APPEARS WITHIN THIS LETTER OF CREDIT. NOTWITHSTANDING ANY OTHER TERMS HEREIN, A TRANSFER MUST COMPLY WITH ALL APPLICABLE LAWS, INCLUDING INTERNATIONAL TRADE SANCTIONS AND ANTI-MONEY LAUNDERING REGULATIONS.

THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 ("ISP98"), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590.



BANK OF MONTREAL

AUTHORIZED SIGNING OFFICER

Aloysiouse Palihakkarage Don

ORIGINAL



THIS IS AN INTEGRAL PART OF STANDBY LETTER OF CREDIT NO. BMT06972210S AND MUST BE ATTACHED THERETO.

EXHIBIT "A" - REQUEST FORM FOR FULL TRANSFER

(TRANSFER FORM TO BE PREPARED ON BENEFICIARY'S COMPANY LETTERHEAD)

DATE:

AMOUNT:

ISSUING BANK'S REFERENCE: BMT06972210S

FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY IRREVOCABLY TRANSFERS TO:

NAME OF TRANSFEREE:

ADDRESS OF TRANSFEREE:

OTHER TRANSFEREE INFORMATION:

ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY TO DRAW UNDER THE ABOVE LETTER OF CREDIT UP TO ITS AVAILABLE AMOUNT AS OF THE DATE OF THIS TRANSFER, AS SHOWN ABOVE.

BY THIS TRANSFER, ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY IN SUCH STANDBY LETTER OF CREDIT ARE TRANSFERRED TO THE TRANSFEREE, AND THE TRANSFEREE SHALL HAVE THE SOLE RIGHTS AS BENEFICIARY THEREOF, INCLUDING SOLE RIGHTS RELATING TO ANY AMENDMENTS NOW EXISTING OR HEREAFTER MADE. ALL AMENDMENTS ARE TO BE ADVISED DIRECTLY TO THE TRANSFEREE WITHOUT NECESSITY OF ANY CONSENT OR NOTICE TO THE UNDERSIGNED BENEFICIARY.

THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT IS RETURNED HERewith, TOGETHER WITH ANY AND ALL AMENDMENTS, AND WE ASK YOU TO TRANSFER THE LETTER OF CREDIT AND FORWARD IT DIRECTLY TO THE TRANSFEREE WITH YOUR NOTICE OF TRANSFER.

WE CERTIFY THAT THE TRANSFEREE HAS ACQUIRED BENEFICIARY'S RIGHTS AND OBLIGATIONS IN THE UNDERLYING RELATIONSHIP.

ENCLOSED IS OUR REMITTANCE OF CAD335.00 BEING TRANSFER FEE OF CAD300.00 PLUS CAD35.00 COURIER FEE IN PAYMENT OF YOUR TRANSFER COMMISSION, AND IN ADDITION THERETO WE AGREE TO PAY YOU ON DEMAND ANY EXPENSES WHICH MAY BE INCURRED BY YOU IN CONNECTION WITH THIS TRANSFER.

\_\_\_\_\_  
SIGNATURE AUTHENTICATION:

\_\_\_\_\_  
BENEFICIARY'S NAME AS PER L/C:



\_\_\_\_\_  
AUTHORISED SIGNATURE (S) OF BENEFICIARY:

\_\_\_\_\_  
SIGNATURE AUTHENTICATED BY:

(BANK OR NOTARY AUTHORIZED SIGNATURE NAME AND TITLE):

ORIGINAL

This is Exhibit "N" to the Affidavit of **Sheida Richardson** of the City of Toronto, in the Province of Ontario sworn before me in the City of Pickering, in the Province of Ontario, on November 21, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



---

A Commissioner for Taking Affidavits, etc.

**Nikki Kheiritash**

Negin Nikki Kheiritash, a Commissioner, etc.  
Province of Ontario, for Borden Ladner Gervais LLP,  
Barristers and Solicitors.  
Expires October 5, 2026



**Bank of Montreal**

250 Yonge St., 11th Floor  
Toronto, ON M5B 2L7  
Tel: 416 598-6112  
Fax: 416 598-6076  
SWIFT: BOFMCAT2

**Irrevocable  
Standby Letter of Credit No.: BMT06972210S**

ISSUE DATE: NOVEMBER 20, 2023  
EXPIRY DATE: NOVEMBER 19, 2024

BENEFICIARY:  
SIERRA WINDS BUSINESS PARK INC.,  
#1600, 10303 JASPER AVENUE NW,  
EDMONTON, AB T5J 3N6

APPLICANT:  
EASTERN MEAT SOLUTIONS INC., ON BEHALF OF SIERRA REALTY CALGARY CORPORATION.  
5090 EXPLORER DRIVE,  
SUITE 203, MISSISSAUGA,  
ONTARIO, L4W 4T9

AMOUNT: ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00).

WE HEREBY AUTHORIZE YOU TO DRAW ON BANK OF MONTREAL, GLOBAL TRADE OPERATIONS, 250 YONGE STREET, 11TH FLOOR, TORONTO, ON M5B 2L7, FOR THE ACCOUNT OF EASTERN MEAT SOLUTIONS INC. ON BEHALF OF SIERRA REALTY CALGARY CORPORATION UP TO AN AGGREGATE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND AND 00/100'S CANADIAN DOLLARS (CAD1,500,000.00), AVAILABLE WITH OURSELVES, ON DEMAND, BY PAYMENT, AGAINST PRESENTATION OF THE DOCUMENT(S) DETAILED HEREIN.

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"THE TENANT SIERRA REALTY CALGARY CORPORATION HAS FAILED TO FULFILL ITS OBLIGATIONS PURSUANT TO THE LEASE AGREEMENT ENTERED INTO BETWEEN SIERRA REALTY CALGARY CORPORATION AS TENANT AND SIERRA WINDS BUSINESS PARK INC., AS LANDLORD FOR THE LEASE PREMISES DESCRIBED AS PLAN 1910413 BLOCK 1 LOT 1 DATED MARCH 10, 2023, AS MAY BE AMENDED, SUPPLEMENTED OR RESTATED FROM TIME TO TIME. THEREFORE, WE ARE DRAWING FOR CAD....., UNDER LETTER OF CREDIT NO BMT06972210S. PLEASE WIRE PROCEEDS TO: ....."
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THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 ("ISP98"), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590.



BANK OF MONTREAL

AUTHORIZED SIGNING OFFICER

A handwritten signature in black ink, which appears to be "Aloysiouse Palihakkarage Don", is written over the printed text.

Aloysiouse Palihakkarage Don

ORIGINAL



THIS IS AN INTEGRAL PART OF STANDBY LETTER OF CREDIT NO. BMT06972210S AND MUST BE ATTACHED THERETO.

EXHIBIT "A" - REQUEST FORM FOR FULL TRANSFER

(TRANSFER FORM TO BE PREPARED ON BENEFICIARY'S COMPANY LETTERHEAD)

DATE:

AMOUNT:

ISSUING BANK'S REFERENCE: BMT06972210S

FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY IRREVOCABLY TRANSFERS TO:

NAME OF TRANSFEREE:

ADDRESS OF TRANSFEREE:

OTHER TRANSFEREE INFORMATION:

ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY TO DRAW UNDER THE ABOVE LETTER OF CREDIT UP TO ITS AVAILABLE AMOUNT AS OF THE DATE OF THIS TRANSFER, AS SHOWN ABOVE.

BY THIS TRANSFER, ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY IN SUCH STANDBY LETTER OF CREDIT ARE TRANSFERRED TO THE TRANSFEREE, AND THE TRANSFEREE SHALL HAVE THE SOLE RIGHTS AS BENEFICIARY THEREOF, INCLUDING SOLE RIGHTS RELATING TO ANY AMENDMENTS NOW EXISTING OR HEREAFTER MADE. ALL AMENDMENTS ARE TO BE ADVISED DIRECTLY TO THE TRANSFEREE WITHOUT NECESSITY OF ANY CONSENT OR NOTICE TO THE UNDERSIGNED BENEFICIARY.

THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT IS RETURNED HERewith, TOGETHER WITH ANY AND ALL AMENDMENTS, AND WE ASK YOU TO TRANSFER THE LETTER OF CREDIT AND FORWARD IT DIRECTLY TO THE TRANSFEREE WITH YOUR NOTICE OF TRANSFER.

WE CERTIFY THAT THE TRANSFEREE HAS ACQUIRED BENEFICIARY'S RIGHTS AND OBLIGATIONS IN THE UNDERLYING RELATIONSHIP.

ENCLOSED IS OUR REMITTANCE OF CAD335.00 BEING TRANSFER FEE OF CAD300.00 PLUS CAD35.00 COURIER FEE IN PAYMENT OF YOUR TRANSFER COMMISSION, AND IN ADDITION THERETO WE AGREE TO PAY YOU ON DEMAND ANY EXPENSES WHICH MAY BE INCURRED BY YOU IN CONNECTION WITH THIS TRANSFER.

\_\_\_\_\_  
SIGNATURE AUTHENTICATION:

\_\_\_\_\_  
BENEFICIARY'S NAME AS PER L/C:



\_\_\_\_\_  
AUTHORISED SIGNATURE (S) OF BENEFICIARY:

\_\_\_\_\_  
SIGNATURE AUTHENTICATED BY:

(BANK OR NOTARY AUTHORIZED SIGNATURE NAME AND TITLE):

ORIGINAL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EASTERN MEAT SOLUTIONS INC., SIERRA CUSTOM FOODS INC., SIERRA SUPPLY CHAIN SERVICES INC., SIERRA REALTY CORPORATION, RVB HOLDINGS INC., VANDEN BROEK HOLDINGS (2008) INC., SIERRA REALTY CALGARY CORPORATION AND EASTERN MEAT SOLUTIONS (USA) CORP.**

- and - **BANK OF MONTREAL**

Court File No. CV-24-00720622-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceedings commenced at Toronto, Ontario

**AFFIDAVIT OF SHEIDA RICHARDSON**  
**(Motion returnable November 21, 2024)**

**BORDEN LADNER GERVAIS LLP**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3400  
Toronto ON M5H 4E3  
F: 416.367.6749

**Alex MacFarlane/Brendan Wong**  
(LSO#21833Q/51464A)  
amacfarlane@blg.com/bwong@blg.com  
T: 416.367.6305/416.367.6743

Lawyers for the Responding Party,  
Bank of Montreal

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EASTERN MEAT SOLUTIONS INC., SIERRA CUSTOM FOODS INC., SIERRA SUPPLY CHAIN SERVICES INC., SIERRA REALTY CORPORATION, RVB HOLDINGS INC., VANDEN BROEK HOLDINGS (2008) INC., SIERRA REALTY CALGARY CORPORATION AND EASTERN MEAT SOLUTIONS (USA) CORP.**

- and - **BANK OF MONTREAL**

Court File No. CV-24-00720622-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceedings commenced at Toronto, Ontario

**RESPONDING RECORD OF THE BANK OF MONTREAL**  
**(Motion returnable November 21, 2024)**

**BORDEN LADNER GERVAIS LLP**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3400  
Toronto ON M5H 4E3  
T: 416.367.6000

**Alex MacFarlane** (LSO# 28133Q)  
amacfarlane@blg.com  
T: 416.367.6305

**Brendan Wong** (LSO# 51464A)  
bwong@blg.com  
T: 416.367.6743

Lawyers for the Responding Party,  
Bank of Montreal