



## **Terms and Conditions: TruShield Insurance Small Business Recovery Grant Program**

*The asterisk (\*) indicates a "required" field*

### Terms and Conditions:

All grants awarded under the TruShield Insurance Small Business Recovery Grant Program ("Grant Program") administered by the Ontario Chamber of Commerce (OCC) are governed by the following Terms and Conditions subject to any additions, amendments or deletions at the OCC's sole discretion and are contained in this Application Form. By completing this Application Form and submitting it to the OCC, the Applicant is agreeing with the OCC to be bound by these Terms and Conditions in the event a grant is approved and agrees that these Terms and Conditions constitute a binding contract between the Applicant and the OCC. In addition to these Terms and Conditions, the OCC reserves the right to include additional Terms and Conditions which will be contained in subsequent correspondence with the Applicant. The Applicant will be asked to agree to any additional Terms and Conditions by signing and returning the applicable document(s) to the OCC. Additional Terms and Conditions agreed to by the Applicant will form part of this Agreement with the OCC. The OCC will not disburse any grant funds to the Applicant until the Applicant signs and submits both this Application Form and any subsequent correspondence or documents, containing any additional Terms and Conditions, as may be requested by the OCC.

### 1.0 Definitions

1.1 Words in the singular include the plural and vice-versa. Words in one gender include both genders. The headings do not form part of the Agreement. The headings are for convenience of reference only and shall not affect the interpretation of the Agreement.

1.2 The following terms shall have the following meanings:

"Agreement" means the Terms and Conditions and any additions, amendments and deletions hereto, the requirements as set out in the Program Guidelines, the Application Form, the Approval Letter and any additional Terms and Conditions of the Project.

"Applicant" means the entity that has submitted this application to the OCC under the Grant Program;

"Application Form" means the application form submitted by the Applicant for funding under the Grant Program, including the information provided in this form and any other document or information provided by the Applicant at the request of the OCC;

"Approval Letter" means the letter from the OCC advising the Applicant of the approval of a grant to the Applicant under the Grant Program;

"Claims" means all liabilities, losses, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings;

"Eligible Expenses" means those expenses described in the Expenses Summary, which were incurred by the Recipient on or after March 15, 2020 and are eligible for potential reimbursement in accordance with the Application Guidelines and Terms and Conditions;

"Expenses Summary" means the summary of expenses for which the Applicant is requesting reimbursement under the Grant Program, included in the Application Form;

"Funds" or "Funding" means the money provided by the OCC to the Recipient pursuant to this Agreement and in certain circumstances as described herein, repaid to the OCC in the manner provided in this Agreement;

"Grant Program " means the TruShield Insurance Small Business Recovery Grant Program.

"Northbridge" means Northbridge Financial Corporation and all subsidiaries thereof;

"Notice" means any communication provided pursuant to this Agreement in accordance with Article 17.

"OCC" means the Ontario Chamber of Commerce;

"Program Guidelines" means the Grant Program application guidelines that explains the program guidelines, the Pre-Application Checklist, and the Grant FAQ all as posted on the web.

"Project" means the project for which the Applicant submitted an Expenses Summary to apply for potential reimbursement under the Grant Program;

"Recipient" means the Applicant who has been awarded a grant under the Grant Program and has agreed to be bound by this Agreement.

"Terms and Conditions" means the terms and conditions set out in this application and any terms and conditions set out in any subsequent correspondence from the OCC.

## 2.0 Representations, Warranties and Covenants of the Recipient

2.1 Recipient represents, warrants and covenants to the OCC, and acknowledges that the OCC is relying upon such representations, warranties and covenants in connection with the Project, that:

(a) it is, and shall continue to be for the term of the Agreement, a sole proprietor registered in the jurisdiction of operation or a legal entity validly existing under the laws of its jurisdiction of incorporation, amalgamation, continuation or organization, with full power and authority to fulfill its obligations under this Agreement;

(b) it has taken all necessary actions to authorize the entering into and execution of this Agreement;

(c) all information (including but not limited to any information relating to the eligibility requirements for Funding) provided by the Recipient to the OCC in support of its request for Funding and in its Application Form was true and complete at the time the Recipient provided it, and shall continue to be true and complete for the term of this Agreement and the Recipient recognizes that the OCC has relied upon the truth, authenticity and accuracy of the information in authorizing the Funds; and

(d) the Recipient will promptly notify the OCC of any material change that would adversely or otherwise affect the ability of the Recipient to fulfill its obligations under this Agreement or in the carrying out of the Project.

2.3 The Recipient is and will remain in compliance with all applicable laws, regulations and orders and duly observes all requirements of governmental authorities, and all statutes and regulations which could affect the Recipient and the Project during the term of this Agreement.

2.4 Upon request of the OCC, acting reasonably, the Recipient shall provide the OCC with proof of the matters referred to in this Article or as provided in the Recipient's Application Form.

### 3.0 Term of the Agreement

3.1 The term of the Agreement shall commence on the date that the Recipient receives the Approval Letter or if otherwise noted in the Approval Letter and shall expire on the Expiration Date noted in the Approval Letter, unless terminated on an earlier date pursuant to Article 12 or Article 13.

### 4.0 Funds and Carrying out the Project

4.1 The OCC shall provide Funds to the Recipient in a single payment, for up to the maximum dollar amount set out in the Approval Letter for the purpose of reimbursing the applicant for approved Eligible Expenses, subject to, and conditional upon compliance with the Terms and Conditions of this Agreement.

4.2 Notwithstanding the amount of the Eligible Expenses or the Expenses Summary, the OCC shall not be responsible to pay the Recipient any amount in excess of the dollar amount of the Funds set out in the Approval Letter.

4.3 The Recipient represents and warrants to the OCC that:

(a) it carried out the Project in accordance with this Agreement and in compliance with all federal and provincial laws or regulations, all municipal by-laws, and any other orders, rules or by-laws related to any aspect of the Project; and

(b) all information relating to the Eligible Expenses was true and complete at the time the Recipient provided it, and shall continue to be true and complete for the term of this Agreement and the Recipient recognizes that the OCC has relied upon the truth, authenticity and accuracy of the information in authorizing the Funds. If any such information is no longer true and complete, including without limitation if the Eligible Expenses were returned or refunded, the Recipient shall notify OCC immediately and the Recipient shall return the Funds to OCC pursuant to Section 16.3 below.

4.4 The OCC may impose, at any time, such additional terms or conditions or waiver of such terms and conditions on the use of the Funding as it considers appropriate for the proper expenditure and management of the Funding and the Grant Program and the carrying out and completion of the Project.

### 5.0 Acquisition of Goods and Services

5.1 The Recipient represents and warrants that it acted reasonably in the acquisition of any supplies, equipment or services for which the Funds will reimburse such expenses, including but not limited to, through a process that promoted and acquired the best value for the Funds.

## 6.0 Conflict of Interest

6.1 The Recipient represents and warrants that it has caused the Project at all times to be carried out in such a manner so as not to create an actual, potential or perceived conflict of interest in the Project or the use of the Funds (as defined in Section 6.2 hereof).

6.2 A "conflict of interest" includes a situation in which a person associated with the Project or any member of his or her family is able to benefit financially from his or her involvement in the Project or any circumstances where the Recipient or any person who has the capacity to affect the Recipient's decision, has outside commitments, relationships or financial interests that could, or could be seen to, interfere with its, his or her objective, unbiased and impartial judgment relating to the Project and the use of the Funds; provided that nothing in this section shall prevent volunteers from receiving reasonable out-of-pocket expenses incurred in connection with the Project.

6.3 If the Recipient believes there may be a conflict of interest, the Recipient shall:

(a) disclose to the OCC, without delay, any situation that a reasonable person would interpret as either an actual, potential or perceived conflict of interest in respect of carrying out the Project or the Recipient's use of the Funds; and

(b) comply with any subsequent Terms and Conditions or direction of the OCC.

## 7.0 Reporting, Accounting and Review

7.1 The Recipient shall provide the OCC, with its Application Form,

1. the documentation in support of the expenses incurred as listed in the Expenses Summary; and
2. any additional reports or documents as the OCC may reasonably request.

The OCC reserves the right to refrain from reviewing any Application Form until the Applicant has provided all the documents or information required by the Application Form and this Section 7.1. The OCC reserves the right, at any time, to disqualify and immediately remove any Applicant from the Grant Program who, in the OCC's sole discretion, has provided an incomplete Application Form or failed to submit any other required documentation or information.

7.2 The Recipient shall, upon the written request of OCC, acting reasonably, participate in a Grant Program evaluation review to be conducted by OCC or its authorized representatives.

7.3 The Recipient shall for a period of seven years from the Expiration Date or termination of this Agreement keep and maintain in a confidential manner:

(a) all financial records, invoices and other financial-related documents in respect of the Funds and the Project in a manner consistent with generally accepted accounting principles and clerical practices; and

(b) all non-financial documents and records in respect of the Funds and the Project and such documents and records shall not be disclosed to any party except as otherwise permitted by this Agreement or upon the prior written consent of the OCC.

7.4 The OCC or its authorized representatives may, at any time, acting reasonably, without prior written Notice to the Recipient, conduct a full or partial audit or investigation of the Recipient in respect of the Project.

## 8.0 Communications and Credit

8.1 Any public or other announcements with respect to the Funds, the Project or this Agreement, except as may be required by law, will be made only upon the mutual agreement of the parties. Where an announcement, publication, press release, media event, report, paper or research and development communiqué is planned by the Recipient pertaining to the Project, the Recipient shall:

(a) provide a copy of the announcement, publication, press release, media event, report, paper or research and development communiqué to the OCC at least 15 business days prior to the expected general release or publication; and

(b) work with the OCC to ensure both parties agree on and are satisfied with the announcement, publication, press release, media event, report, paper or research and development communiqué.

8.2 The OCC reserves the right to issue communications and marketing materials of whatever kind and format at any time respecting the Project without the approval of the Recipient.

8.3 Upon request, the Recipient agrees to participate in and provide information to the OCC regarding OCC planned communication activities relating to the Funds.

8.4 As a condition of accepting the Funds, Recipient acknowledges and agrees that Northbridge may require it to sign a release and agree (without further notice or compensation) to the use of their name, business information and other information submitted with the Application in any publicity or advertisement about Grant Program in its discretion.

## 9.0 Limitation of Liability

9.1 The OCC's and Northbridge's directors, officers, employees, representatives, advisors and agents shall not be liable to the Recipient or any of the Recipient's personnel for any direct or indirect costs, losses, claims, liabilities, actions, suits, expenses and damages howsoever caused (including any incidental, indirect, special or consequential damages, injury or any loss of use or profit of the Recipient) arising out of or in any way related to the Project, the provision of the Funds or otherwise in connection with this Agreement.

## 10.0 Indemnity

10.1 The Recipient hereby agrees to indemnify and hold harmless the OCC, Northbridge and their respective directors, officers, employees, representatives, advisors and agents, and all other parties associated with the development, execution, funding and administration of the Grant Program, from and against any and all liabilities, losses, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, debts,

claims, obligations, demands, lawsuits or other proceedings, in law or in equity (collectively "Claims"), by whomever made, sustained, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Recipient, its subcontractors or their respective directors, officers, employees, representatives, advisors and agents or independent contractors in the course of performance of the Recipient's obligations under, or otherwise in connection with, this Agreement or in any way arising out of or in connection with the Project or the Recipient's participation in the Grant Program. The Recipient further agrees to indemnify and hold harmless the OCC, Northbridge and their respective directors, officers, employees, representatives, advisors and agents for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization, including without limitation the OCC or Northbridge, claimed or resulting from such Claims.

#### 11.0 Insurance

11.1 The Recipient shall obtain and maintain, with insurers acceptable to the OCC, for the period during which this Agreement is in effect, at its own expense commercial general liability insurance, for third party bodily injury, personal injury and property damage to an inclusive limit of not less than one million (\$1,000,000.00) dollars per occurrence.

#### 12.0 Termination by the OCC Without Cause

12.1 The OCC reserves the right, at any time in its sole discretion, to terminate this Agreement, without cause and without penalty, upon giving at least fifteen days' Notice to the Recipient.

#### 13.0 Termination by the OCC on Notice

13.1 The OCC reserves the right, at any time, to terminate the Agreement effective immediately upon giving Notice to the Recipient, if in the OCC's sole discretion:

- (a) the Recipient has provided false or misleading information regarding its Funding request, in its Application Form or in any other communication with the OCC;
- (b) the Recipient breaches any material provision of this Agreement, including, without limitation, if any representation or warrant made herein is found to be false or incorrect or misleading in a material respect, by omission or otherwise;
- (c) the Recipient is unable to complete or has discontinued the Project in whole or in part;
- (d) there is a substantial increase in the degree of risk surrounding the implementation and completion of the Project;
- (e) the nature of the Recipient's business, or its corporate status, changes so that it no longer meets the applicable eligibility requirements of the Grant Program under which the OCC provides the Funds;
- (f) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or is petitioned into bankruptcy, or files for the appointment of a receiver;

(g) the Recipient used any portion of the Funds for any purpose other than those permitted by this Agreement; or

(h) the Recipient ceases to carry on business.

13.2 If the OCC considers that it is appropriate to allow the Recipient an opportunity to remedy a breach of this Agreement, the OCC may give the Recipient an opportunity to remedy the breach by giving the Recipient Notice:

(a) of the particulars of the breach;

(b) of the period of time within which the Recipient is required to remedy the breach; and

(c) that the OCC will terminate this Agreement if:

(i) at the end of the notice period provided for in the Notice the Recipient fails to remedy the breach within the time specified in the Notice; or

(ii) prior to the end of the notice period provided for in the Notice it becomes apparent to the OCC, in its sole discretion, that the Recipient cannot completely remedy the breach within that time or such further period of time as the OCC considers reasonable, or the Recipient is not proceeding to remedy the breach in a way that is satisfactory to the OCC.

13.3 If the OCC has provided the Recipient with an opportunity to remedy the breach, and the Recipient does not remedy the breach within the time period specified in the Notice, the OCC may immediately terminate this Agreement by giving Notice of termination to the Recipient.

13.4 The effective date of any termination under this Article shall be the last day of the notice period specified in the Notice, the last day of any subsequent notice period or immediately at the discretion of the OCC, which ever applies.

13.5 Upon termination of this Agreement pursuant to this Article, the OCC shall:

(a) demand the repayment of any Funds remaining in the possession or under the control of the Recipient;

(b) demand the repayment of an amount equal to any Funds the Recipient used for purposes not agreed upon by the OCC; and

(c) cancel all further disbursements of Funds.

13.6 Upon termination of this Agreement pursuant to this Article and receipt of the OCC's notice in Section 13.5, the Recipient shall immediately repay any Funds remaining in its possession or under its control to the OCC pursuant to Article 16.

13.7 Despite its right to terminate this Agreement pursuant to section 13.1, the OCC may choose not to terminate this Agreement and may take whatever corrective action it considers necessary and appropriate, including suspending Funding for such period as the OCC determines, to ensure the successful completion of the Project in accordance with the terms of this Agreement.

14.0 Recipients Obligations upon Termination

14.1 Upon termination of this Agreement by the OCC, the Recipient shall in addition to its other obligations under this Agreement, including but not limited to, Article 16, and at law:

(a) provide the OCC with a report detailing:

- (i) the current state of the Project at the date of termination; and
- (ii) any other information requested by the OCC pertaining to the performance of any and all obligations under this Agreement;

(b) execute such documentation as may be required by the OCC to give effect to the termination of this Agreement; and

(c) comply with any other instructions provided by the OCC including, but not limited to instructions for facilitating the transfer of the Recipient's obligations to another party.

#### 15.0 Funding Upon Termination

15.1 Upon termination of this Agreement, the OCC shall demand:

(a) the repayment of any Funds remaining in the possession or under the control of the Recipient; and,

(b) the payment of an amount equal to any Funds the Recipient used for purposes not agreed upon by the OCC.

15.2 The OCC reserves the right to withhold the disbursement of any portion of the Funds not disbursed by the Expiration Date of this Agreement.

#### 16.0 Recipient's Repayment of Funds

16.1 If the OCC demands the repayment of Funds or interest in the Funds by the Recipient pursuant to this Agreement, the amount demanded shall be deemed to be a debt owing to the OCC by the Recipient, and the Recipient shall pay the amount of such funds to the OCC immediately unless the OCC directs otherwise.

16.2 The Recipient shall pay any amounts owing to the OCC by cheque payable to the OCC and mailed to the address provided by the OCC.

16.3 The Recipient agrees that any portion of the Funds that have not been used to reimburse for Eligible Expenses shall be repaid to the OCC upon demand.

#### 17.0 Notice

17.1 Any Notice shall be:

(a) in writing;

(b) delivered personally or by pre-paid courier, or sent by certified or registered mail or email or postage pre-paid mail with receipt notification requested; and



(c) addressed to the other party as either party shall designate to the other in writing, provided that Notice shall be given to the OCC at the following address:

Ontario Chamber of Commerce  
180 Dundas Street West, Suite 2105  
Toronto, Ontario M5G 1Z8  
Attention: Louie Di Palma

17.2 All Notices shall be effective:

(a) at the time the delivery is made if the Notice is delivered personally, by pre-paid courier or email; or

(b) three days after the day the Notice was deposited in the mail if the Notice is sent by certified, registered or postage prepaid mail, unless the day the Notice is effective falls on a day when the OCC is normally closed for business, in which case the Notice shall not be effective until the next day that is a day when the OCC is normally open for business.

18.0 Severability of Provisions

18.1 The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and any invalid or unenforceable provision shall be deemed to be severed.

19.0 Waiver

19.1 No provision of this Agreement shall be deemed to be waived, and no breach excused, unless such waiver or consent excusing the breach is in writing and signed by the party to be charged with such waiver or consent. A waiver of any provision of this Agreement, or of any breach of any provision of this Agreement, is not to be deemed or construed to be a waiver of any other provision of this Agreement, or of any other breach, whether of the same or of any other provision, nor shall any delay or omission on the part of any party to this Agreement to exercise or avail itself of any right it has or may have under this Agreement, operate as a waiver of any such breach or right, nor will any waiver or failure to enforce any of the provisions of this Agreement in any way affect the validity of this Agreement or any part of it.

20.0 Independent Parties

20.1 The parties are, and shall at all times remain, independent of each other and are not and shall not represent themselves to be the agent, joint venturer, partner or employee of the other. No representations shall be made or acts taken by either party which could establish or imply any apparent relationship of agency, joint venture, partnership or employment and neither party shall be bound in any manner whatsoever by any agreements, warranties or representations made by the other party to any other person or entity, nor with respect to any other action of the other party.

21.0 Assignment of Agreement or Funds

21.1 The Recipient shall not assign this Agreement or the Funds or any part thereof without the prior written consent of the OCC.

22.0 Governing Law

22.1 This Agreement and the rights, obligations and relations of the parties hereto shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. Any litigation or arbitration arising in connection with the Agreement shall be conducted in Ontario unless the Parties agree in writing otherwise.

#### 23.0 Further Assurances

23.1 The parties agree to do or cause to be done all acts or things necessary to implement and carry into effect the Agreement to its full extent.

#### 24.0 Circumstances Beyond the Control of Either Party

24.1 For the purposes of the Agreement, "Force Majeure" means an event that is beyond the reasonable control of a party and/or makes a party's performance of its obligations under this Agreement impossible or so impracticable as reasonably to be considered impossible in the circumstances, including, but not limited to: (a) war, riots and civil disorder; (b) storm, flood, earthquake or other severely adverse weather conditions; (c) confiscation or other similar action by government agencies; (d) lawful act by a public authority; (e) strikes, lockouts and other labour actions; and (f) epidemic or pandemic, including, but not limited to, the novel COVID-19 pandemic.

24.2 Force Majeure shall not include:

- (a) any event that is caused by the negligence or intentional action of a party or such party's agents or employees;
- (b) any event that a diligent party could reasonably have been expected to:
  - (i) take into account at the time of the execution of this Agreement; or
  - (ii) avoid or overcome in the carrying out of its obligations under this Agreement; or,
- (c) the insufficiency of funds or failure to make any payment required hereunder.

24.3 The failure of either party to fulfill any of its obligations under this Agreement shall not be considered to be a breach of, or default under, this Agreement to the extent that such failure to fulfill the obligation arose from an event of Force Majeure, if the party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the Terms and Conditions of this Agreement.

#### 25.0 Independent Legal Advice

25.1 The Recipient hereby represents and warrants to the OCC and acknowledges and agrees that it had sufficient opportunity to seek and was not prevented nor discouraged by the OCC from seeking independent legal advice prior to the delivery of this Agreement and that, in the event that the Recipient did not avail itself of that opportunity prior to delivering this Agreement, the Recipient did so voluntarily without any undue pressure and agrees that its failure to obtain independent legal advice shall not be used by it as a defence to the enforcement of its obligations under this Agreement. The Recipient hereby represents and warrants that it fully understands the nature and effect of this Agreement and that it is entering into it freely and voluntarily.

#### 26.0 Non-Disparagement

26.1 The Recipient agrees not to make any negative, critical, derogatory or disparaging comments or statements of any sort or otherwise communicate or encourage any person to communicate any negative, critical, derogatory or disparaging comments or statements about each the OCC, Northbridge and the Grant Program to any third party at any time. This obligation extends to any comments or statements made verbally or in writing to the press or on the Internet, including via social media, on blog and on social networking sites.

#### 27.0 Consent

27.1 When an Applicant submits the Application Form and voluntarily provides certain information, including, but not limited to, its name, the Project and the amount and use of the Eligible Expenses (collectively, the "Applicant's Information"), the Applicant agrees to OCC's collection and use of the Applicant Information to conduct and administer the Grant Program, including, but not limited to, statistical and reporting purposes, and to the disclosure of Applicant Information to Northbridge for statistical purposes. Subject to the Applicant's Information not having been previously made public, broadcast or published on the OCC's website, or been irrevocably scheduled for broadcast, the Applicant's consent to OCC's use of the Applicant's Information may be revoked with reasonable notice in writing to OCC pursuant to Section 17.

#### **Statement by Applicant**

On behalf of and with the authority of the Applicant, I/we certify that:

- a. the information given in support of this application for a grant is true, correct and complete in every respect;
- b. by checking the "I Accept These Terms" box below the Applicant acknowledges that he or she has read, understood and agrees to abide by, and be bound by, the Terms and Conditions above governing any Funds provided under the Grant Program and any additional Terms and Conditions specified in subsequent correspondence from the OCC; and
- c. the applicant is aware that the information contained herein can be used for the assessment of grant eligibility and for statistical reporting.

#### **Acceptance of Terms\***

##### **Responses Selected:**

I Accept These Terms