

**MEMORANDUM OF UNDERSTANDING**

**MADE AS OF:**

**BY: Charity Bank**  
**TO: Canada Revenue Agency (“CRA”)**

**RECITALS:**

- A. By letters patent of incorporation Charity Bank was incorporated under the *Bank Act* (S.C. 1991, c. 45) as a Schedule I chartered bank on ● to carry on the business of banking for the exclusive benefit of charity sector in Canada. The letters patent of incorporation are appended to this Memorandum of Understanding as Exhibit ‘A’
- B. The letters patent of incorporation of Charity Bank state the objects of Charity Bank as follows:
- To carry on the business of banking for the exclusive benefit of charity sector in Canada.
- C. Under the *Bank Act* (Canada), Charity Bank has all of the powers of a natural person. further, Charity Bank is empowered by virtue of its letters patent issued under the *Bank Act* (Canada) to provide all of the products and services which can be provided by a Canadian Schedule I chartered bank.
- D. Charity Bank is an initiative of and has been and will continue to be supported by other registered charities, members of the charity sector in Canada, Canadian philanthropists, the government of Canada, the governments of the provinces of ● and private sector businesses, including other Schedule I chartered banks.
- E. The primary and exclusively charitable purpose of Charity Bank is to carry on the business of banking for the purpose of enhancing the efficiency and effectiveness of the charity sector as a whole (the “**enhancement purpose**” and the “**enhancement activities**”). The secondary and exclusively charitable purpose of Charity Bank is to carry out other charitable activities directly by providing project financing to projects which are exclusively charitable in nature and which would not or might not be funded otherwise, either at all or on satisfactory terms (the “**project financing purpose**” and the “**project financing activities**”), and by providing financial products and services to individuals and communities for the sole purpose of the relief of poverty, the advancement of education or religion, or other purposes considered at law to be charitable (the “**community development purpose**” and the “**project financing activities**”).

- F. Charity Bank has been accepted for registration as a registered charity, classified as a charitable organization, by the CRA on ● on condition that it enter into a memorandum of understanding with the CRA addressing certain aspects of its governance and operation in order to ensure, to the satisfaction of CRA, that it continues to exist and operate for exclusively charitable purposes.

## **UNDERSTANDINGS AND UNDERTAKINGS:**

### **Recitals true**

1. Charity Bank declares that the foregoing recitals are true.

### **Charity Bank's exclusively charitable purpose**

2. Charity Bank undertakes to restrict its activities to activities which are exclusively charitable.
3. Charity Bank undertakes that its formal objects clause, as set out in recital B, will not be amended or modified in any way without the prior written permission of CRA.

### **Exclusively charitable nature of Charity Bank's activities**

#### *Enhancement activities*

4. The enhancement activities of Charity Bank shall consist of the following main activities:
  - (a) providing financial products and services to registered charities and other qualified donees; and
  - (b) providing financial products and services to select non-profit organizations resident in Canada which, although not qualified donees, are substantially or exclusively charitable in purpose and activities ("**Other Charities**").
5. In furtherance of its enhancement purpose, it is understood that Charity Bank may provide some or all of the following types of financial products and services: deposit-taking, loans, guarantees and related financial assistance, social investments (i.e., investments in circumstances where loans are either not available in the commercial market or only available on normal commercial terms which are beyond the ability of charities prudently to finance without prejudicing charitable initiatives), lines of credit, letters of credit, banker's acceptances, money management, interest and currency swaps and other derivatives. Product and services lines will be designed and developed based, in general, on the identified needs of the charity sector or of the individual client, as opportunities present themselves and as circumstances permit. Charity Bank intends to develop innovative financial products, services and processes tailored to meet the needs of the Charity Bank's clientele, as a whole and on an individual basis.
6. In furtherance of its enhancement purpose, some of Charity Bank's financial products and services will be provided by Charity Bank to qualified donees and Other Charities on

terms that are materially beneficial to them. Others will be provided to them on commercially competitive terms. Others may be provided to qualified donees and Other Charities on a premium-pricing basis in order to generate surplus funds to be used for other charitable activities of Charity Bank. Each of these is described in turn.

- (a) Material benefits to qualified donees and Other Charities may take the form of discounts against commercial pricing of selected financial products and services and/or the provision of such products and services in circumstances where they would not be readily available or would not be available on acceptable terms to qualified donees and Other Charities from commercial providers. Examples include:
  - (i) providing bridge financing in situations where grant funding is pending or delayed;
  - (ii) providing capital and/or operating financing against the security of fixed assets;
  - (iii) providing operating lines of credit where donation funding is expected based on demonstrated fund raising capacity;
  - (iv) underwriting bond and other securities issues;
  - (v) providing loans on beneficial terms;
  - (vi) providing regulatory compliance services and legal and accounting information services;
  - (vii) providing information on best practices nationwide;
  - (viii) providing tailored financial products and services for individual clients;
  - (ix) providing higher rates of interest for deposits for certain clients; and
  - (x) providing ancillary fundraising products and services such as credit card processing capability and donation receipt processing capability.
- (b) Products and services provided on commercially competitive terms may include deposit instruments.
- (c) Premium-priced financial products and services, of a superior quality, may be provided to larger customers, with explicit recognition that any profit to Charity Bank from such products and services will be used to subsidize other charitable activities of Charity Bank.

It is understood that the choice between the three modes of delivery – materially beneficial, competitively priced and premium priced – will be determined by Charity Bank on a product-by-product and service-by-service basis as the charitable business plan

of Charity Bank develops. The determination of which mode of delivery will be influenced by the degree to which Charity Bank is able to earn a profit from the investment of the capital donated to Charity Bank, the capital invested in Charity Bank on a non-yield basis, and deposit accounts opened with Charity Bank by members of the public on a financially advantageous basis to Charity Bank. To achieve its goal of enhancing the efficiency and effectiveness of the charity sector as a whole, Charity Bank will operate on a financially viable basis, while targeting the financial products and services needs of the charity sector which are not being met currently. Charity Bank will have a comparative economic advantage in regard to its operations in the charity sector because of, among other things, its lower cost structure, its specialized and deep knowledge of the charity sector as a whole and of the individual members and organizations therein, and its clear identification with the charity sector in the eyes of qualified donees and Other Charities.

*Project financing activities*

7. The project financing activities shall consist of the following main activities:
  - (a) providing financial products and services to projects, sponsored or led by for-profit and/or not-for-profit entities, which are exclusively charitable in nature

*Community development activities*

8. The community development activities shall consist of the following main activities:
  - (a) providing financial products and services to individuals and communities for the sole purpose of the relief of poverty, the advancement of education and religion, or other purposes considered at law to be charitable.

**Charity Bank subsidiaries**

9. It is understood that Charity Bank may deploy one or more subsidiaries to deliver some of the proposed financial products and services. For example, it is possible that Charity Bank may provide custodial or trustee services through a subsidiary or subsidiaries. Other examples of financial products and services that may be offered through a subsidiary of Charity Bank include payroll and employee benefits products and services, insurance products, asset management services, donation and other data processing services, and consulting and other advisory services. In the event that Charity Bank incorporates a subsidiary to pursue one or more of its charitable purposes, by Charity Bank, Charity Bank undertakes as follows:
  - (a) the subsidiaries will be incorporated solely for functional and/or regulatory reasons and will be devoted, like Charity Bank, exclusively to enhancement activities, project financing activities and/or community development activities;
  - (b) the subsidiary will apply for registered charity status and will not commence operations as a subsidiary of Charity Bank until such charitable registration has been obtained; and,

- (c) all of the common shares and all of the voting shares of the subsidiary shall be owned by Charity Bank.

### **Capital structure of Charity Bank**

10. The capital structure of Charity Bank is as follows:
  - (a) Charity Bank has a class of fully participating common shares entitling its holders to vote and to participate fully in the profits of Charity Bank by way of dividend and upon dissolution or liquidation. The letters patent of incorporation provide that these shares cannot be transferred or encumbered without the prior written consent of the board of directors of Charity Bank. This class of shares is and will continue to be owned exclusively by another registered charity organized as a charitable purpose trust (the “**Charity Bank Trust**”) and established solely for the purpose of holding such shares and of deploying the assets received on the dissolution or liquidation of Charity Bank or by way of dividend from Charity Bank for exclusively charitable purposes. The declaration of trust pursuant to which the Charity Bank Trust is established is attached to this Memorandum of Understanding as Exhibit B. Charity Bank undertakes that it will not consent to the transfer or encumbrance of the shares owned by Charity Bank Trust without the prior written permission of CRA.
  - (b) There are several classes of preference shares with full voting rights and rights to preferential dividends and preferential return of capital on dissolution or liquidation. The letters patent of incorporation provide that these shares cannot be transferred or encumbered without the prior written consent of the board of directors of Charity Bank. The shares are redeemable, and in some cases retractable, after a specified period of time and with the consent of the Superintendent of Financial Institutions. These shares are and will continue to be owned exclusively by qualified donees. These shares constitute the principal vehicle of financial support from qualified donees for the capital of Charity Bank. Charity Bank undertakes that it will not consent to the transfer or encumbrance of these shares without the prior written permission of CRA
  - (c) There are several classes of preference shares with no voting rights and no right to dividends or to participate in distributions on dissolution or liquidation, but with a preferential right to a return of capital on dissolution or liquidation. None of these shares has been issued. If Charity Bank issues these shares they will be owned by philanthropic individuals and entities who or which are interested in contributing to the establishment of Charity Bank.
  - (d) Charity Bank will also raise funds by obtaining loans, grants and outright gifts from individuals, corporations, the federal and provincial governments, government agencies and other qualified donees.
11. It is understood that Charity Bank will raise deposits from qualified donees, government agencies and members of the public. Charity Bank’s deposit-taking operations will

generally be carried out on commercial terms. Some of Charity Bank’s deposit-taking operations may be innovative in a way that materially benefits qualified donees. For example, some deposit relationships may provide for or facilitate an opportunity for the depositor to donate or forego a portion of the interest received by or due to them to Charity Bank.

## **Governance of Charity Bank**

12. The governance of Charity Bank is established in the general by-law of Charity Bank (the “**General By-law**”), appended hereto as Exhibit ‘C’. Charity Bank undertakes not to amend or modify any of the provisions of the General By-law without the prior written permission of CRA.
13. The voting shares of Charity Bank are owned and will continue to be owned exclusively by qualified donees, as previously described. The General By-law provides for a board of directors of between 9 and 15 directors, selected based on their experience in the banking and charity sectors and on regional representation. Currently, there are ● directors. The governance model established in the General By-law is designed to ensure the success of Charity Bank as a bank for charities. This includes staggered terms of office and other devices based on or derived from current thinking on best practices on governance in the banking sector and in the charity sector.
14. Charity Bank’s General By-law provides for the establishment of a standing committee of the board of directors referred to in the General By-law as the “Charity Review Committee.” The terms and provisions in the General By-law establishing the Charity Review Committee are as follows:
  1. There shall be a standing committee of the board of directors to be called the “Charity Review Committee.” Members of the Charity Review Committee shall be appointed by the board of directors by resolution from time to time. There shall be a minimum of three and a maximum of six members of the Charity Review Committee. All members of the Charity Review Committee shall be members of the board.
  2. The Charity Review Committee shall
    - (a) report to the board from time to time and at least semi-annually on the compliance of the Corporation with its obligations under federal and provincial charity law and on the performance of the Corporation in respect of its charitable mission;
    - (b) design, implement and maintain internal systems of accountability and control relating to compliance by the Corporation with its obligations under federal and provincial charity law and the performance by the Corporation of its charitable mission; and,

(c) establish and maintain a direct relationship with the Canada Revenue Agency to receive information and advice from and deliver information to the Canada Revenue Agency in relation to the compliance obligations of the Corporation under federal charity law.

Charity Bank undertakes to allocate sufficient resources to the Charity Review Committee so that it can fulfill its obligations under the General By-law.

**Profitability of Charity Bank**

- 15. It is understood that Charity Bank will operate to ensure a prudent profit. It will deploy commercially competitive pricing where it is necessary to maintain its operations as an economically viable bank. Any profits or surplus realized will be retained as an additional source of capital or redeployed for the benefit of the charity sector, either by way of gift, by way of dividends on shares issued to and owned (legally and beneficially) only by qualified donees, by subsidizing the provision of financial products and services to the charity sector or by subsidizing its other charitable activities. Charity Bank will modulate its pricing so that its profits are kept to a prudent level and as a means of redeploying into the charity sector profits that could otherwise be earned.

**Incidental benefits from Charity Bank’s activities**

- 16. It is understood that the activities of Charity Bank may result incidentally in benefits to other members of the non-profit sector. The provision of incidental benefits to non-charitable non-profit organizations will occur only if Charity Bank determines that such incidental benefits also benefit the charity sector. Charity Bank will, as part of its compliance practices, identify such incidental benefits, quantify them and ensure that they remain incidental to Charity Bank’s charitable purposes. Charity Bank will ensure that such incidental benefits are provided only to organizations which are substantially, but not exclusively, charitable in purpose.

**CHARITY BANK**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the Corporation