

SECOND AMENDING AGREEMENT TO CREDIT AGREEMENT

THIS AGREEMENT is made as of November 16, 2018

AMONG:

TIMBERCREEK FINANCIAL CORP.
as Borrower

- and -

THE INSTITUTIONS NAMED HEREIN AS LENDERS

- and -

THE TORONTO-DOMINION BANK
as Agent

BACKGROUND

WHEREAS pursuant to a second amended and restated credit agreement made as of December 21, 2017 among Timbercreek Financial Corp., as borrower (the “**Borrower**”), the institutions named therein as Lenders and The Toronto-Dominion Bank, as Agent (as changed and in effect before the Amendments and Waiver (each defined below) take effect, the “**Existing Credit Agreement**”), the Lenders agreed to make certain credit facilities available to the Borrower for the purposes set forth therein.

AND WHEREAS the Borrower and the Lenders have agreed to amend the Existing Credit Agreement, in accordance with Section 14.16 thereof, for the purposes and on the terms and conditions set out in this second amending agreement.

NOW THEREFORE in consideration of the mutual obligations contained herein and for other consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

Words and expressions defined or given extended meanings in the Existing Credit Agreement are used with the same respective defined or extended meanings in this second amending agreement.

1.2 Reference to Agreements

Unless the context otherwise requires, each reference in this second amending agreement to any agreement or document (including this second amending agreement and any

other defined term that is an agreement or document) shall be construed so as to include such agreement or document (including any attached schedules and exhibits) and each change thereto made at or before the time in question.

1.3 Headings, etc.

The division of this second amending agreement into Articles, Sections and Subsections and the insertion of headings and titles are for the convenience of reference only and shall not affect the construction or interpretation of this second amending agreement. The terms “**this second amending agreement**”, “**hereof**”, “**hereunder**” and similar expressions refer to this second amending agreement and not to any particular Article, Section, Subsection, paragraph, subparagraph, clause or other portion of this second amending agreement.

1.4 Grammatical Variations

In this second amending agreement, unless the context otherwise requires, (i) words and expressions (including words and expressions (capitalized or not) defined, given extended meanings or incorporated by reference herein) in the singular include the plural and *vice versa* (the necessary changes being made to fit the context), (ii) words in one gender include all genders and (iii) grammatical variations of words and expressions (capitalized or not) which are defined, given extended meanings or incorporated by reference in this second amending agreement shall be construed in like manner.

ARTICLE 2 AMENDMENT

2.1 Amendment

Subject to Section 2.3 of this second amending agreement, the Existing Credit Agreement is hereby amended (collectively, the “**Amendments**”) with effect as of and from the date hereof as follows:

2.1.1 Section 1.1 is amended by:

- (a) inserting a new definition of “**Approved Non-Qualifying Mortgage**” in alphabetical order therein reading in its entirety as follows:

“**Approved Non-Qualifying Mortgage**” means a Mortgage approved by the Required Lenders for inclusion in the Borrowing Base (subject to any limitations contained in such approval). The private first Mortgage secured by the office building located at 700 2nd St. SW, Calgary, Alberta and the Mortgage loan advances thereunder described in the letters dated October 25, 2018 from the Borrower to the Agent requesting certain amendments and a waiver to certain provisions of this Agreement has been approved by the Required Lenders to the extent described in those letters and accordingly constitutes an Approved Non-Qualifying Mortgage to such extent.

- (b) deleting the period at the end of the definition of “Excluded Mortgage Loan Advances” replacing it by a semi-colon and adding the following proviso at the end thereof, reading in its entirety as follows:

; provided that outstanding Mortgage loan advances to which the Borrower is beneficially entitled under any Approved Non-Qualifying Mortgage shall not constitute Excluded Mortgage Loan Advances to the extent the Required Lenders have approved their inclusion in the Borrowing Base.

- (c) deleting the definition of “Final Maturity Date” contained therein and replacing it by the following new definition reading in its entirety as follows:

“**Final Maturity Date**” for each Lender means (i) December 20, 2019, or the preceding Business Day if December 20, 2019 is not a Business Day, if such Lender does not agree to extend such December 20, 2019 Final Maturity Date pursuant to Subsection 7.1.1, (ii) December 20, 2020, or the preceding Business Day if December 20, 2020 is not a Business Day, if such Lender agrees to extend the December 20, 2019 Final Maturity Date pursuant to Subsection 7.1.1, but does not agree to extend the December 20, 2020 Final Maturity Date pursuant to Subsection 7.1.1 or (iii) such later date to which such Lender agrees to extend its Final Maturity Date pursuant to Subsection 7.1.1, or the preceding Business Day if such later date is not a Business Day.

- (d) inserting “other than Mortgage loan advances under Approved Non-Qualifying Mortgages to the extent the Required Lenders have agreed to include them as Qualified Advances,” immediately after the words “under any single Mortgage,” appearing in the fifth line of the definition of “Qualified Advances”.

- (e) deleting the definition of “Total Commitment” contained therein and replacing it by the following new definition reading in its entirety as follows:

“**Total Commitment**” means the total sum of all the Revolver Commitments and the Swing Line Commitment of all of the Lenders. As at November 16, 2018 the Total Commitment is \$500,000,000.

2.1.2 Subsection 2.5.1 is amended by (a) deleting “After the 2nd Effective Date” appearing at the commencement thereof and replacing it by “After November 9, 2018” and (b) inserting “which occur after November 9, 2018” immediately after the phrase “the total amount of all such increases in the Total Revolver Commitment” appearing in clause (c) thereof;

2.1.3 Subsection 7.1.1 is deleted and replaced by a new Subsection 7.1.1 reading in its entirety as follows:

7.1.1 *Final Maturity Date for the Revolver.*

- (a) The Borrower shall repay to the Agent for the account of each Revolver Lender on the Final Maturity Date for that Revolver Lender such Revolver Lender’s Ratable Share in each Advance then outstanding under the Revolver. The Revolver shall be permanently cancelled and

the Total Revolver Commitment shall be permanently reduced by the amount of such Revolver Lender's Revolver Commitment on that Final Maturity Date.

(b) The Borrower may, by notice to the Agent given no more than 120, and no less than 90, days prior to then current Final Maturity Date for each Revolver Lender (or such shorter period as the Agent may in its discretion accept), request the Revolver Lenders to extend their respective Final Maturity Dates for a further one year term. The Agent will promptly forward any such extension request received to the Revolver Lenders and request them to accept or reject such extension request within 30 days. The failure by a Revolver Lender to respond to any such extension request shall be deemed to be a rejection of such extension request. If Required Lenders do not accept any such extension request, then the Final Maturity Date shall not be extended for any Revolver Lenders. If Required Lenders accept any such extension request, then the Final Maturity Date shall be extended for a further one year period for those Required Lenders accepting such extension request only. The Final Maturity Date for any Revolver Lender that does not accept an extension request shall not be extended and its Ratable Share in each Advance then outstanding under the Revolver shall be paid in full on or before its non-extended Final Maturity Date.

2.1.4 Subsection 14.8.9 is amended by (a) deleting "or" appearing before "(b)" in the third line thereof and replacing it by a comma and (b) inserting "or (c) does not accept to an extension request pursuant to Subsection 7.1.1" immediately before "then the Borrower may" appearing in the fifth line thereof; and

2.1.5 by deleting Schedule 1 and replacing it by Schedule 1 hereto.

2.2 Waiver

Subject to Section 2.3, the Required Lenders hereby waive (the "**Waiver**") compliance by the Borrower with Subsection 11.4.12(f) of the Existing Credit Agreement to the extent required to permit the Borrower to make the Investment in the private first Mortgage secured by the office building located at 700 2nd St. SW, Calgary, Alberta described in the letters dated October 25, 2018 from the Borrower to the Agent requesting the Amendments and the Waiver and agree that such Mortgage shall constitute an Approved Non-Qualifying Mortgage to the extent described in those letters. The Waiver shall not constitute an agreement, waiver or consent to any event, circumstance, matter or thing, except for the specific matter and to the extent expressly provided for above.

2.3 Conditions Precedent to Amendments and Waiver

The Amendments and the Waiver shall not become effective unless the Agent notifies the Borrower and the Lenders (an "**Effective Notice**") that the following conditions have been satisfied:

2.3.1 The Agent has received each of the following in form and substance satisfactory to the Agent (in original or, at the Agent's discretion, pdf, facsimile or other copy):

- (a) a certificate of compliance or status (or equivalent) for each of the Obligors (other than any Obligor that is a trust with individual trustees), TAML and the Manager

issued by the appropriate governmental authority of the jurisdiction of formation confirming the existence or authority of each Obligor, TAML or the Manager to conduct business, as the case may be; provided that in the case of an Obligor that is a trust with a corporate trustee, a certificate of compliance or status (or equivalent) for the corporate trustee may be provided in lieu of a certificate of compliance or status (or equivalent) for that Obligor;

- (b) a duly executed original (or facsimile or pdf copy, as the Agent may accept) of this second amending agreement signed by each party hereto; and
- (c) a duly executed original (or facsimile or pdf copy, as the Agent may accept) of a confirmation in the form of Exhibit A hereto Part I or II, as the case may be, signed by each of Timbercreek CILO II Holdings Partnership, TAMI, TAML and TMIF (the “**Confirmations**”).

2.3.2 The Agent has received payment of (a) all fees payable to each of the Lenders under Section 3.1 and (b) all invoiced reasonable fees, costs and expenses (invoiced or estimated) payable by the Agent to the Lenders’ Counsel in respect of the negotiation, execution, delivery and entry into effect of this second amending agreement and any other document related hereto.

The date the Agent provides the Effective Notice to the Borrower and the other Lenders is referred to in this second amending agreement as the “**Effective Date**”. The Existing Credit Agreement as amended by the Amendments and waived by the Waiver on the Effective Date shall constitute one agreement, is and shall continue to be in full force and effect, and the Existing Credit Agreement as so amended is hereby ratified and confirmed by the parties hereto.

2.4 Transitional Adjustments

On the Effective Date, the Agent shall determine the amount of adjusting payments that may need to be made amongst the Revolver Lenders to ensure that their respective shares in outstanding Advances under the Revolver equal their respective Rateable Shares of the Revolver based upon their respective Revolver Commitments as adjusted on the Effective Date. Each Lender shall advance to the Agent the amount of any such adjusting payment so required of it and the Agent shall advance to each other Revolver Lender the amount of the corresponding adjusting payment required to be paid to it as determined above. The Borrower shall be obliged to repay outstanding Advances under the Revolver amongst the Revolver Lenders as adjusted pursuant to this Section 2.4. Adjusting payments pursuant to this Section 2.4 in respect of Acceptances and Libor Loans shall not take place until the expiry of their current Terms and Interest Periods, respectively.

2.5 Conditions Subsequent

The Borrower agrees to provide the Agent with each of the following documents, each in form and substance satisfactory to the Agent (in original or, at the Agent’s discretion, pdf, facsimile or other copy), on or before November 19, 2018 (or such later date as the Agent in its discretion may permit):

- (a) a Certificate of each Obligor (A) attaching true copies of (1) the Constatting Documents of that Obligor, including (in the case of the Borrower) the Borrower Investment Guidelines, or confirming that no changes have been made thereto since the 2nd Effective Date, (2) all necessary action taken by that Obligor to authorize the execution, delivery and performance of this second amending agreement or the Confirmation to which it is party and the consummation of the transactions contemplated thereby, and (3) true signatures of each Responsible Officer of that Obligor executing this second amending agreement or the Confirmation to which it is party at or before the Effective Time, (B) in the case of the Borrower, confirming that (1) no Default or Material Adverse Effect has occurred and is continuing and (2) each of the representations and warranties made the Borrower under Section 10.1 is true, accurate and complete in all respects and (C) as to such other matters as the Agent may reasonably require; and
- (b) opinions from the Borrower's Counsel on all matters incident to the Loan Documents, including this second amending agreement and the Confirmations, in form and substance satisfactory to the Agent, acting on the advice of the Lenders' Counsel.

The Borrower shall not be entitled to increase Commitments pursuant to the Accordion until after the foregoing documents have been received by the Agent.

ARTICLE 3 AMENDMENT FEE

3.1 Amendment Fee

The Borrower agrees to pay to the Agent for the account of (a) those Lenders who agree to extend their respective Final Maturity Dates until December 20, 2020, or the immediately preceding Business Day if December 20, 2020 is not a Business Day, an extension fee computed as *[redacted text]* basis points (*[redacted text]*%) upon the Commitments in effect immediately before the Amendments and Waiver take effect and (b) all Lenders who increase their respective Commitments or provide an initial Commitment an upfront fee computed as *[redacted text]* basis points (*[redacted text]*%) upon the additional Commitments taking effect when the Amendments and Waiver take effect (or *[\$[redacted text]*).

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Borrower

The Borrower represents and warrants to and in favour of each of the Agent and the Lenders as follows:

4.1.1 General Warranties. The representations and warranties made by the Borrower to the Agent and the Lenders under Section 10.1 of the Existing Credit Agreement shall be deemed to be repeated on the date of execution and delivery hereof and on the Effective Date with

references therein to the Existing Credit Agreement being replaced by references to this second amending agreement and the Confirmations (in the case of the date of execution and delivery hereof) and the Existing Credit Agreement as amended by the Amendments and waived by the Waiver (in the case of the Effective Date).

ARTICLE 5 CONFIRMATION OF THE BORROWER

5.1 Confirmation of Security

5.1.1 This second amending agreement is not intended by the parties to, and shall not constitute, a payment, discharge, satisfaction or novation of any obligation of the Borrower to any of the Agent and the Lenders, including the whole or any item or part of the Loan Obligations.

5.1.2 The Borrower ratifies and confirms its Loan Obligations, as amended by the Amendments and waived by the Waiver on the Effective Date, and confirms and agrees that its Loan Obligations continue in full force and effect without change, except to the extent the Existing Credit Agreement is expressly amended by the Amendments and waived by the Waiver, and are binding upon it.

5.1.3 The execution and delivery of this second amending agreement and the entry into effect of the Amendments and the Waiver on the Effective Date shall not in any manner whatsoever reduce, release, discharge, impair or otherwise prejudice or change the rights of any of the Agent and the Lenders arising under, by reason of or otherwise in respect of any of the Loan Documents to which the Borrower is party, except to the extent expressly amended by the Amendments and waived by the Waiver.

5.1.4 The Borrower confirms and agrees that the Liens, postponements and subordinations expressed to be created under or pursuant to the Security Documents to which it is party shall be binding upon the Borrower and its assets and shall, except as expressly amended by the Amendments and waived by the Waiver, be unaffected by and shall continue in full force and effect notwithstanding the Amendments and the Waiver, and the execution and delivery of this second amending agreement and the entry into effect of the Amendments and the Waiver shall not in any manner whatsoever reduce, release, discharge, impair or otherwise prejudice or change the rights of any of the Agent and the Lenders arising under, by reason of or otherwise in respect of such Liens, postponements and subordinations constituted by such Security Documents, except to the extent expressly amended by the Amendments and waived by the Waiver.

5.2 Loan Document

This second amending agreement shall constitute a Loan Document.

ARTICLE 6 GENERAL

6.1 Further Assurances

The Borrower shall, at its own expense, do, make, execute or deliver all such further acts, documents and things in connection with this second amending agreement as the Agent may reasonably require for the purpose of giving effect to this second amending agreement, all promptly following the request of the Agent.

6.2 Fees and Expenses

The Borrower shall, promptly following the request by the Agent, pay and/or reimburse the Agent on a full indemnity basis for the payment of all reasonable out-of-pocket expenses (including the reasonable fees and expenses of the Lenders' Counsel and their out-of-pocket disbursements plus applicable taxes) incurred by the Agent in connection with the preparation, settlement, execution and delivery of this second amending agreement and the entry into effect of the Amendments and the Waiver. The Borrower hereby irrevocably directs the Agent to debit the Borrower's Account with and pay to the Lender's Counsel at any time the amount of all invoiced fees, costs and expenses of Lenders' Counsel in connection with this second amending agreement.

6.3 Benefit & Burden

This second amending agreement shall enure to the benefit of and be binding upon the parties hereto, their respective successors and each assignee of some or all of the rights or obligations of the parties under the Loan Documents permitted by Section 14.8 of the Existing Credit Agreement. Any reference in any such Loan Document to any party shall (to the extent the context so admits) be construed accordingly.

6.4 Counterparts

This second amending agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this second amending agreement to produce or account for more than one such counterpart. Transmission of a copy of an executed signature page of this second amending agreement (including any change to this second amending agreement) by facsimile transmission or e-mail in pdf format by any party hereto to the other parties hereto, or posting a copy of an executed signature page of this second amending agreement (including any change to this second amending agreement) on an internet website designated by the Agent under Subsection 13.24.2 of the Existing Credit Agreement, shall be as effective as delivery of an original manually executed counterpart hereof to each other party hereto.

6.5 Governing Law

This second amending agreement shall be governed by, and construed and interpreted in accordance with, the laws in force in the Province of Ontario, including the federal

laws of Canada applicable therein, but excluding choice of law rules. Such choice of law shall, however, be without prejudice to or limitation of any other rights available to the Agent and the Lenders under the laws of any jurisdiction where the Borrower or any of its assets may be located.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the parties have executed this second amending agreement as of the date first written above.

BORROWER:

TIMBERCREEK FINANCIAL CORP.

By: /Signed
Name:
Title:

By: /Signed
Name:
Title:

THE LENDERS:

THE TORONTO-DOMINION BANK

By: /Signed
Name: _____
Title:

By: /Signed
Name: _____
Title:

**CANADIAN IMPERIAL BANK OF
COMMERCE**

By: /Signed
Name:
Title:

By: /Signed
Name:
Title:

NATIONAL BANK OF CANADA

By: /Signed
Name:
Title:

By: /Signed
Name:
Title:

HSBC BANK CANADA

By: /Signed
Name:
Title:

By: /Signed
Name:
Title:

ROYAL BANK OF CANADA

By: *Signed* _____

Name:

Title:

BANK OF MONTREAL

By: *Signed* _____
Name:
Title:

THE BANK OF NOVA SCOTIA

By: /Signed
Name:
Title:

By: /Signed
Name:
Title:

**RAYMOND JAMES FINANCE COMPANY
OF CANADA LTD.**

By: /Signed
Name:
Title:

CANADIAN WESTERN BANK

By: /Signed
Name:
Title:

By: /Signed
Name:
Title:

LAURENTIAN BANK OF CANADA

By: /Signed
Name:
Title:

By: /Signed
Name:
Title:

THE AGENT:

THE TORONTO-DOMINION BANK,
as Agent

By: /Signed _____
Name:
Title:

SCHEDULE 1
Commitments

[schedule intentionally left blank]

EXHIBIT A
FORM OF CONFIRMATION

[schedule intentionally left blank]