

Participant Agreement for the Micro Finance Committee

THIS AGREEMENT made in duplicate as of Date: _____

BETWEEN: TRENVAL BUSINESS DEVELOPMENT CORPORATION and

[_____]

(the "Participant")

WHEREAS the Participant has applied for a grant under the Starter Plus Program (aka Starter Company Plus program) which provides funding to enterprising entrepreneurs who are starting a business in their community.

AND WHEREAS TRENVAL and the Participant wish to set out in this Agreement their respective rights and obligations concerning the grant of funds from TRENVAL.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual promises and covenants contained in it, TRENVAL and the Participant agree as follows:

Section 1 - Interpretation of the Agreement

1.01 Definitions. The following capitalized terms shall have the meanings ascribed to them below unless there is something in the context inconsistent therewith:

“Agreement” means this agreement together with the Application, Guidelines, appendices and any amendments thereto;

"Application" means the Starter Plus Program grant application completed by the Participant and includes the Business Plan and / or Business Expansion Summary;

"Award" means the financial assistance in the grant amount to be disbursed by TRENVAL to the Participant in the manner provided in this Agreement;

“Small Business Centre” and ‘SBC’ means Small Business Enterprise Centre, an economic development program servicing the City of Quinte West, City of Belleville, Hastings County, Prince Edward County, the County of Lennox & Addington;

“Business” means the operation of the independent business as described in the Application, Business Plan and / or Business Expansion Summary;

"Mentors" means individuals within a committee of local business representatives referred to in the Guidelines to which the Participant is assigned;

"Business Plan" and “Expansion Plan Summary” mean the business plan submitted by the Participant with the Application and approved by TRENVAL;

“Trenval” means Trenval Business Development Corporation;

"Disbursement" means any advance of funds authorized by TRENVAL on account of the Award;

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"Guidelines" means the guidelines posted by TRENVAL/SBC which are also provided to the Participant with the Application setting out the criteria and conditions for the Starter Plus Program, and which guidelines are subject to change from time to time without notice;

"Participant Survey" means the survey on the Starter Plus Program that the Participant is required to complete;

"Starter Plus Program" (aka Starter Company Plus Program) means the program established for the purpose of providing business training, mentorship and capital for entrepreneurs to start, grow, or buy a small business;

There may be exceptions for a longer term, at the discretion of the program provider.

Section 2 – Participant Covenants

- 2.01 The Participant agrees to implement or run the Business substantially in accordance with this Agreement and operate the Business on a full time basis (an average of a minimum of 35 hours a week). The Participant shall use best efforts to satisfy the targets set out in the Business Plan and / or Business Expansion Summary. Material changes should be noted and TRENVAL/SBC notified of this change.
- 2.02 The Participant shall not use one hundred percent (100%) of grant awarded, on equipment purchases for the Business.
- 2.03 The Participant shall provide to TRENVAL/SBC, a copy of the Business' articles of incorporation, partnership agreement and/or, business name registration, as applicable;
- 2.04 The Participant shall obtain all applicable licenses required to operate the Business, and upon request, provide evidence of compliance to TRENVAL/SBC.
- 2.05 The Participant and the Business shall comply with and duly observe all present and future applicable federal and provincial laws, regulations and municipal by-laws.
- 2.06 The Participant agrees to, on a predetermined basis by TRENVAL/SBC:
 - (a) attend meetings with the Business Mentors appointed by TRENVAL/SBC;
 - (b) review a cash flow statement (revenue numbers, etc.) of the Business operations
 - (c) be prepared to review copies of all receipts and invoices organized, totaled and reconciled to the cash flow record upon request.
- 2.07 The Participant agrees to participate in business training as recommended by TRENVAL/SBC;
- 2.08 The Participant will permit TRENVAL/SBC to visit the Business site at such reasonable times as may be requested to review the progress of the Business and to review the Business' compliance with the terms and conditions of this Agreement.
- 2.09 The Participant agrees to attend an Exit Interview to provide information to TRENVAL/SBC about the Participant's experience with the Small Business Program.

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- 2.10 The Participant agrees to provide such other information and comply with such other reasonable requirements as established by TRENVAL/SBC.
- 2.11 The Participant agrees to provide, on a predetermined basis by TRENVAL/SBC, business related information pertaining to growth and operations for a period of 3 years after completing the training component of the Stater Plus Program.
- 2.12 (i) Audit Rights for the Crown. The parties agree that audit rights under the Micro-Financing Agreement shall inure to the benefit of the Province, any authorized representative or any independent auditor identified by the Province, at the Province's expense, which audit rights (including the right of inspection and review of the Approved Participant's progress of its project under the SBEC Program and any allocation and expenditure of Funds and to perform a full or partial audit of the Approved Participant) shall continue in full force and effect for a period of seven years from the date of expiry or termination of the [Starter Company Plus Initiative Micro-Financing Agreement or Summer Company Initiative Micro-Financing Agreement, as applicable];
(ii) Post-SBEC Program Reporting. The Approved Participant shall, if requested by the Recipient or the Province, provide progress reporting information such as the Approved Participant's business expansion and job creation for three consecutive Funding Years following the expiry date or termination of the [Starter Company Plus Initiative Micro-Financing Agreement or Summer Company Initiative Micro-Financing Agreement, as applicable];

Section 3 – Participant's Representations and Warranties

- 3.01 The Participant has read and understood the following conditions:
 - The participant is 18 years of age or older at the time of application.
 - Proposing a new business, expanding an existing business, or buying a business in Ontario.
 - Not returning to school in any capacity.
 - A resident of Ontario.
 - Canadian citizen or permanent resident.
 - Not enrolled in other provincial employment or self-employment related initiative and programs that include or do not include financial assistance.
 - Not a previous recipient of this grant.
 - Not currently enrolled in any self-employment or entrepreneurship training/financing initiative and programs offered by government funded organizations.

Section 4 - The Award

- 4.01 Subject to and in accordance with all of the terms and conditions of this Agreement, and in reliance on the representations and warranties in Section 3, TRENVAL/SBC agrees to provide an Award to the Participant to assist the Participant to carry out the Business Plan and /or the Business Expansion Summary for the Business.
- 4.02 Participant award amount \$_____ Confirmed by Trenval: _____

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Section 5 - Terms and Conditions of Disbursement

5.01 Disbursements by TRENVAL/SBC to the Participant on account of the Award shall be made upon full completion of program requirements as determined by the program coordinator

Section 6 -Termination

6.01 In the event that the Participant is in breach of a covenant, term or condition set out in this Agreement, upon 15 days written notice to the Participant:

- (a) All obligations of TRENVAL/SBC to make Disbursements on account of the Award shall be immediately extinguished;
- (b) TRENVAL/SBC may, at its option, terminate this Agreement and may demand immediate repayment from the Participant of the total Disbursements made by TRENVAL/SBC, and the total amount of all Disbursements made pursuant to this Agreement shall be immediately due and payable by the Participant to TRENVAL/SBC, together with interest at Prime plus 3% per annum (the definition of Prime is the prime rate of lending established by the bank of TRENVAL/SBC); and
- (c) TRENVAL/SBC may avail itself of any of its legal remedies, which it may deem appropriate.

Section 7 - General

7.01 Audit

All contracts, papers, correspondence, copies, books, payrolls, records, accounts, invoices, statements, accounting records and other information and material of the Participant relating to the expenses incurred by the Participant pursuant to the Business and this Agreement shall be open to audit examination by TRENVAL/SBC or its agent at all reasonable times during the Term of this Agreement and for a period of 7 years thereafter and the Participant hereby agrees to maintain such records for such period of time.

7.02 Applicable Law

This Agreement is to be governed by and interpreted in all respects in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

7.03 Entire Agreement

This Agreement, including the Application and Guidelines, Final Disbursement Amendment forms the entire Agreement between the Participant and TRENVAL/SBC and supersedes all prior agreements and understandings.

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7.04 Time

Time is of the essence of this Agreement.

7.05 Limitations of Liability

In no event will TRENVAL/SBC be responsible for any direct, or indirect, or consequential damages sustained by the Participant or any of its employees, customers or any other third parties, howsoever caused.

7.06 Insurance

The Participant should carry all the necessary and appropriate insurance that a prudent person in the business of the Participant would maintain. The Participant is responsible for his/her own insurance and is not covered by the Province of Ontario's, Trenval Business Development or Program Partner insurance programs. No protection will be afforded to the Participant by the Province of Ontario's, Trenval Business Development or Program Partners for any claims that may arise from the Participants' operation of the Business.

7.07 Notices

Any notice, request, demand, consent, approval, correspondence, report or other communication required pursuant to or permitted under this Agreement must be in writing and must be given by personal delivery, or transmitted by telex, fax, telegram, facsimile, or other electronic message which provides a hard copy, or be sent by first class mail, postage or charges prepaid, and addressed to the party to whom it is intended at, in the case of the Participant, at the address set out in the Application and in the case of TRENVAL/ SBC, at the address set out below:

Trenval Business Development Corporation & Small Business Centre
284B Wallbridge-Loyalist Road P.O. Box 610 Belleville, ON K8N 5B3

Any such notice shall be deemed to be received, if personally delivered or sent by telex, telegram, facsimile, or other electronic message on the day it is sent and if such notice is sent by first class mail it shall be deemed to have been received on the date that is five days after the date of mailing.

7.08 Non-Agent

The Participant and TRENVAL/SBC agree and declare that nothing in this Agreement shall be construed as creating a partnership, joint venture, agency or employment relationship between the Participant and TRENVAL/SBC.

7.09 Conflict in Documents

In the event of any conflict or inconsistency in this Agreement, (a) the main body of the Agreement shall govern over the Appendices to the Agreement; (b) the Agreement (including its Appendices) shall govern over the Guidelines and the Application; and (c) the Guidelines shall govern over the Application.

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7.10 Conflict of Interest

The Participant shall ensure that any person associated with the Business, in whatever capacity, carries out the Business, in all its aspects, without a conflict of interest. For these purposes, a conflict of interest includes any circumstances where (a) the Participant; or (b) any person who has the capacity to influence the Participant's decisions; has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the Participant's objective, unbiased and impartial judgment relating to the Business and the use of the Award. Nothing in this section shall prevent the Participant if it so chooses from reimbursing its volunteers for their reasonable out of pocket expenses incurred in connection with the Business. The Participant shall (a) disclose to TRENVAL/SBC without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest; and (b) comply with any terms and conditions that TRENVAL/SBC may prescribe as a result of the disclosure.

7.12 Amendments. This Agreement may be amended, altered or modified only by a written agreement or addendum ('Final Disbursement Amendment') signed by both TRENVAL/SBC and the Participant

7.13 Waiver. The benefit of any provision of this Agreement may be waived in whole or in part by the party for whose benefit the provision operates and any party may waive any or all of its rights in the event of a breach of any provision of this Agreement by the other party. A waiver is binding on the waiving party only if it is in writing. A waiver may be absolute or may be limited in any way as to duration or scope.

7.14 Further Assurances. The Participant agrees at any time and from time to time after the execution and delivery of this Agreement to execute and deliver such further acts and things as Ontario may reasonably request in order to fully affect the purpose of this Agreement and the transactions contemplated herein.

7.15 Freedom of Information and Protection of Privacy Act. The Participant acknowledges that County/BACN is bound by the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 c.F.31 as amended and that the information provided to TRENVAL/SBC in connection with the Business or otherwise in connection with the Agreement may be subject to disclosure under that *Act*.

7.16 Force Majeure. Neither party shall be responsible for failures in performance resulting from matters beyond the control of the party, including acts of God, riots or other civil insurrection, war, strikes and lock-outs.

7.17 Severability. The invalidity or unenforceability of any provision of this Agreement or any covenant in it will not affect the validity or enforceability of any other provision or covenant in it, and the invalid provision or covenant will be deemed to be severable.

Name: _____

I have read this document in full - YES NO

Amber Darling - Executive Director for Trenval