
Dairy Farmers of Ontario Credit Program

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1.0 Definitions

In this document:

- (a) "ACP" means the external organization hired by DFO to assist with this credit program;
- (b) "audited financial statement" means a financial statement, which includes an audit report by an independent accountant licensed to practice in the jurisdiction in which the financial statement was prepared;
- (c) "balance sheet" means a statement of assets, liabilities and equity on a fixed date;
- (d) "cash flow statement" means a report of cash receipts and payments from operating, investing and financing activities including an explanation of changes for the period covered by the report;
- (e) "cash flow to total debt service" means the result obtained by dividing the total of net income plus non-cash expenses plus interest expense by the total of interest expense plus current maturities of long-term debt;
- (f) "current assets" means those assets realizable within one year from the date of the balance sheet (or within the normal operating cycle, where that is longer than a year), including cash, temporary investments, accounts and notes receivable, inventories, prepaid expenses and current portion of future income tax assets;
- (g) "current liabilities" means amounts payable within one year from the date of the balance sheet (or within the normal operating cycle, where that is longer than a year);
- (h) "DFO" means Dairy Farmers of Ontario;
- (i) "equity" means the excess of total assets over total liabilities;
- (j) "guarantor" means one who guarantees payment on behalf of a processor;
- (k) "income statement" means a statement that presents all revenues, expenses, income and losses for the period covered by the statement;
- (l) "long-term debt" means debts due or payable more than one year from the date of the balance sheet;
- (m) "processor" means a person or company that has a license to operate a milk processing facility as issued by the appropriate regulatory body;
- (n) "start-up processor" means a processor which:
 - (i) has projected milk purchases from DFO of less than one million litres of milk per annum;
 - (ii) prior to any shipment of milk, has a business plan supporting its credit worthiness approved by the ACP; and

- (iii) has purchased milk from DFO for less than three years from the month of its first milk purchase;
- (o) "security" means collateral in form or amount to secure a debt; and
- (p) all references to dollars are denominated in Canadian dollars.

2.0 Background

2.1 Purpose

DFO has established this credit program as a means to protect the milk producers it represents by minimizing credit losses. DFO believes that this program is fair and realistic for its customers. DFO is not obligated to grant credit or sell milk to a processor if the processor fails to comply with the requirements of this credit program or is in contravention of any of the *Milk Act* or any regulations, policies or directions thereunder.

No aspect of this credit program limits DFO from requesting information from any processor that it deems to be necessary for credit granting purposes. DFO has the right under the *Milk Act* to require the production for inspection of all books, records and documents respecting the marketing of milk.

2.2 Communications and Correspondence

Communications, correspondence and delivery of documents related to this credit program shall be as follows:

- (a) All general inquiries related to this credit program should be directed to DFO.
- (b) All financial statements, related financial information and correspondence related thereto that must be filed under the terms of this credit program, shall be delivered in person or by courier to the ACP. DFO will provide each processor with the mailing address, telephone number and the name of the contact at the ACP.
- (c) All security and correspondence related thereto that must be filed under the terms of this credit program, shall be delivered in person or by courier to DFO.

3.0 Authorities

3.1 Dairy Farmers of Ontario

3.1.1 BACKGROUND. DFO is the organization that represents the interests of the milk shippers in the province. It is mandated under the *Milk Act* and its regulations to market all raw milk, control the transportation of raw milk, establish the prices for raw milk, reimburse dairy farmers, allocate the raw milk to plants and promote fluid milk, among other things.

3.2.1 AUTHORITIES. Under this credit program, DFO is authorized, but not limited, to perform the following:

- (a) Request the information required for this credit program.
- (b) Determine which processors are credit worthy and which are not.
- (c) Establish the level and terms of credit with processors.
- (d) Demand security in support of accounts receivable and establish the amount of the security.
- (e) Make individual arrangements with respect to payment terms.
- (f) Realize on any security if certain requirements are not being met.
- (g) Release security if certain requirements are met.
- (h) Cease the supply of milk to processors who do not meet the requirements of this credit program.
- (i) Contract the services of external organizations or advisors for any aspect of this credit program.
- (j) Change any aspect of this credit program following consultation with the Ontario Dairy Council.

3.2 The ACP

3.2.1 AUTHORITIES. DFO has authorized the ACP to perform the following:

- (a) Request all information required for this credit program.
- (b) Assess each processor against the credit criteria.
- (c) Maintain financial and credit information on each processor.
- (d) Notify processors who do not meet the requirements of this credit program.
- (e) Provide DFO with access to all information on processors who have not arranged security with the ACP if said processors are required to do so under the terms of this credit program.
- (f) At DFO's request, arrange security with processors who do not meet the credit criteria.
- (g) Provide any other services necessary for this credit program.

3.2.2 RESTRICTIONS. The ACP is not authorized to change any aspect of this credit program, nor does the ACP have authority to negotiate concessions with any processor except with the specific written consent of DFO.

4.0 Credit Program

4.1 Access to Information

4.1.1 ACP's ACCESS TO INFORMATION. The ACP shall have access to all information filed under the terms of this credit program.

4.1.2 DFO's ACCESS TO INFORMATION. DFO shall have access to:

- (a) A processor's general information filed under section 4.2.
- (b) A processor's financial statements and related information filed under section 4.3 if the processor fails to meet the minimum credit criteria requirements and has not filed security in accordance with this credit program.
- (c) A processor's security and related information filed under section 4.5

4.2 General Information

4.2.1 REQUIREMENT. Every processor shall file initially with the ACP for submission to DFO:

- (a) The processor's correct legal name and any trade name used by the processor, its articles of incorporation and copies of any trade name filings under the *Business Names Act*.
- (b) The location of the processor's corporate offices and each of its milk processing facilities in the province of Ontario and any other processing facility receiving milk from DFO.
- (c) The name of a primary contact and alternate contact at the corporate offices who may be contacted at that location.
- (d) The name and location of, and contact at, the processor's primary bank.
- (e) Copies of licenses from the provincial authority.
- (f) Any other relevant information required by the ACP to administer this credit program.

4.2.2 NOTIFICATION OF CHANGES. Every processor shall file with the ACP any changes to the information under section 4.2.1 within 15 days of occurrence.

4.2.3 FAILURE TO PROVIDE. If a processor fails to provide general information under section 4.2.1, the processor must file security with DFO in accordance with section 4.5. If the processor fails to file security by the final deadline date specified under section 4.5.5(c), DFO may cease to supply milk to the processor.

4.3 Financial Statements

- 4.3.1 QUARTERLY FINANCIAL STATEMENT. Every processor shall file quarterly financial statements with the ACP in order to be eligible to qualify under this credit program unless it files security with DFO in accordance with section 4.5.
- (a) Every processor shall file quarterly financial statements for the first three quarters of the processor's fiscal year.
 - (b) Except as provided under section 4.3.2(c), each quarterly financial statement shall be filed within 60 days after the end of the fiscal quarter to which the statement pertains.
- 4.3.2 YEAR-END FINANCIAL STATEMENT. Every processor shall file its year-end financial statement with the ACP in order to be eligible to qualify under this credit program unless it files security with DFO in accordance with section 4.5.
- (a) Every processor shall file within 90 days of its year-end, its year-end financial statements.
 - (b) Every year-end financial statement under paragraph (a) shall be either of the following:
 1. An audited financial statement if a processor's milk purchases from DFO are equal to or greater than \$1,000,000 monthly.
 2. An unaudited (review engagement) financial statement, prepared by an independent accountant licensed to practice in Canada, if a processor's purchases of milk from DFO are less than \$1,000,000 monthly.
 - (c) DFO may extend the date for filing a year-end financial statement under paragraph (a) by up to 30 days if so requested in writing by the processor. The extension request shall be filed with DFO at least 10 days before the deadline date specified in paragraph (a), and shall state the reason for the requested extension.
- 4.3.3 INTERIM FINANCIAL STATEMENT. A processor shall file an interim financial statement with the ACP in order to be eligible to qualify under this credit program if any of the following occurs:
- (a) The processor obtains a new or existing license to operate a plant, as issued by the appropriate provincial regulatory body.
 1. Every processor under paragraph (a) shall file an interim financial statement with the ACP prior to receiving milk from DFO.
 2. Every interim financial statement under paragraph (a) shall be a pro-forma financial statement consisting of a balance sheet reflecting the change in licensing and notes to the balance sheet.
 3. Thereafter, every processor shall file the information specified under section 4.2.1, 4.3.1 and 4.3.2.

- (b) The processor, its parent company or guarantor changes ownership or control.
- (c) The processor, its parent company or guarantor enters into an organizational or financial restructuring.
- (d) The processor, its parent company or guarantor merges with or acquires another business.
- (e) There is a material change in the arrangements with the primary debt holders of the processor, its parent company or guarantor.
- (f) There is a material change in the business operations of the processor, its parent company or guarantor. This includes, but is not limited to, the loss of a major customer, a strike, lockout or other labour dispute, or any other event that has a material impact on the processor, its parent company or guarantor's ability to meet its obligations.

Interim financial statements need not be audited or prepared by an independent accountant licensed to practice in Canada, except as specified by DFO.

4.3.4 FINANCIAL STATEMENT ACCOUNTING PRINCIPLES. Every financial statement under section 4.3.1, 4.3.2, and 4.3.3 shall be prepared in accordance with generally accepted accounting principles or shall specifically state if it has not been so prepared.

4.3.5 FINANCIAL STATEMENT CONTENT.

- (a) Every quarterly financial statement under section 4.3.1 shall include a balance sheet, income statement and any other information required by DFO.
- (b) Every year-end financial statement under section 4.3.2 shall consist of a balance sheet, income statement, cash flow statement and notes to these statements.
- (c) Every interim financial statement under section 4.3.3 (a) shall consist of a balance sheet reflecting the change in licensing and notes to the balance sheet.
- (d) Every interim financial statement under section 4.3.3 shall consist of a balance sheet, income statement, cash flow statement and notes to these statements, unless otherwise specified.

4.3.6 EXEMPTIONS. A processor is not required to file financial statements under section 4.3.1 or 4.3.2 if the processor files security with DFO in accordance with section 4.5.

4.3.7 FAILURE TO PROVIDE. If a processor fails to provide financial statements in accordance with section 4.3.1, 4.3.2 or 4.3.3, the processor must file security with DFO in accordance with section 4.5. If the processor fails to file security by the final deadline date specified under section 4.5.5 (c), DFO may cease to supply milk to the processor.

4.4 Credit Criteria

4.4.1 COMPOSITE CREDIT SCORE. A processor will be assigned a credit score for each of the following based on the financial statements filed under section 4.3.1, 4.3.2, or 4.3.3:

- (a) The ratio of the processor's current assets to current liabilities.
- (b) The ratio of the processor's equity to total assets.
- (c) The ratio of the processor's cash flow to total debt service.

The sum of the credit scores under paragraph (a), (b) and (c) shall be the processor's composite credit score. Credit scores for each of (a), (b) and (c) are provided in Schedule 1.

4.4.2 MINIMUM REQUIREMENTS. Except as provided under section 4.4.4, a processor shall be required to obtain a minimum composite credit score of 30 points in order to be exempt from filing security under section 4.5.

4.4.3 NOTIFICATION OF CHANGES. A processor shall immediately notify DFO in person or by courier if the processor knows or has reason to know that the criteria under section 4.4 are no longer being met.

4.4.4 EXEMPTION. A processor is not required to meet the minimum requirements under section 4.4.2 if the processor files security with DFO in accordance with section 4.5.

4.5 Security

4.5.1 REQUIREMENT. An existing or new processor shall file security with DFO unless it meets the minimum requirements under section 4.4.2. A third party may provide security on behalf of a processor.

4.5.2 APPROVED SECURITY. DFO may approve the following types of security:

- (a) Cash deposits that comply with section 4.5.3 (a).
- (b) Commercial surety bonds that comply with section 4.5.3 (b).
- (c) Corporate guarantees that comply with section 4.5.3 (c).
- (d) Irrevocable bank letters of credit that comply with section 4.5.3 (d).
- (e) Other security that comply with section 4.5.3 (e).

4.5.3 FORM OF SECURITY AND TERMS AND CONDITIONS.

- (a) *Cash Deposits.* Cash Deposits filed as security with DFO shall be all of the following:

1. Issued and endorsed to DFO, so that the deposit cannot be transferred or withdrawn without DFO's written authorization.
 2. Issued for a period of at least one year.
 3. Subject to automatic renewal without any action by DFO.
 4. Issued in a form, and subject to any terms and conditions, that DFO considers necessary or appropriate.
- (b) *Commercial surety bonds.* A commercial surety bond filed as security with DFO shall be all of the following:
1. Made payable to DFO.
 2. Issued by a surety authorized to operate a surety business in Canada.
 3. Issued as a continuous term bond subject to cancellation only upon written notice to DFO received at least 120 days prior to the date of cancellation. Notice of cancellation shall be served on DFO in person or by courier.
 4. Issued in a form, and subject to any terms and conditions, that DFO considers necessary or appropriate.
- (c) *Corporate guarantees.* A corporate guarantee filed as security with DFO shall be all of the following:
1. Issued in favour of DFO.
 2. Issued by a guarantor that meets all of the requirements of section 4.3 and 4.4.
 3. Issued as a continuous guarantee subject to cancellation only upon written notice to DFO at least 120 days prior to the date of cancellation. Notice of cancellation shall be served on DFO in person or by courier.
 4. Issued in a form, and subject to any terms and conditions, that DFO considers necessary or appropriate.
- (d) *Irrevocable bank letters of credit.* An irrevocable bank letter of credit filed as security with DFO shall be all of the following:
1. Payable to DFO.
 2. Issued by a major Canadian chartered bank.
 3. Issued for a period of at least one year.

4. Issued in a form that provides for automatic annual renewal unless, at least 120 days before the scheduled renewal date, the issuing bank gives DFO written notice that the letter of credit will not be renewed. Written notice shall be served on DFO in person or by courier.
5. Issued in a form, and subject to any terms and conditions, that DFO considers necessary or appropriate.

(e) *Other security.* Other security filed with DFO shall be the following:

1. Issued in favour of DFO.
2. Issued for a period of at least one year.
3. Subject to automatic renewal without any action by DFO.
4. Issued in a form that includes, but is not limited to, assignment of accounts receivable, personal guarantee, realty mortgage, subordination agreement or trust deed.
5. Issued in any other form, and subject to any terms and conditions, that DFO considers necessary or appropriate.

4.5.4 AMOUNT OF SECURITY. The amount of the security filed under section 4.5 shall be one of the following:

- (a) An amount equal to the processor's highest two consecutive months' purchases of milk from DFO. Purchases will be based on the processor's most recently completed fiscal year, or on the anticipated highest two consecutive months' purchases in the case of a processor described under section 4.3.3.
- (b) For start-up processors an amount equal to the projected equivalent of one month's purchases of milk from DFO as set out in the business plan approved by the ACP. Normal credit program requirements will apply after a period of three years from the month of the first milk purchase from DFO.
- (c) Any other amount as determined by DFO not to exceed the processor's highest two consecutive months' purchases of milk from DFO. Purchases will be based on the processor's most recently completed fiscal year, or on the anticipated highest two consecutive months' purchases in the case of a processor described under section 4.3.3.

4.5.5 DEMANDS FOR SECURITY.

- (a) DFO may require a processor to provide security or additional security at any time if any of the following occurs:
 1. A processor no longer meets the minimum requirements under section 4.4.

2. A processor's existing security falls below the amounts required under section 4.5.4 because of a decrease in the value of the security filed with DFO, an increase in liability to DFO, or the cancellation of any security filed with DFO.
 3. A processor fails to provide the information requested by DFO under section 4.2.1, 4.3.1, 4.3.2 or 4.3.3, or required under the terms of this credit program.
 4. A processor does not comply with the payment date set out in section 4.6.1.
- (b) If the form of security is a corporate guarantee, DFO may require the guarantor to provide security at any time if any of the following occurs:
1. The guarantor no longer meets the minimum requirements under section 4.4.
 2. The guarantor fails to provide relevant information required under the terms of this credit program.
- (c) If DFO requires a processor to provide security under paragraph (a) or (b), DFO shall issue a written notice to the processor indicating why the security is required, the amount of the security required and the deadline for filing the security. The security filing deadline shall be not more than 30 days after the date on which DFO issues its demand for security. DFO may extend the security filing deadline for up to 30 more days at its sole discretion. If DFO extends the security filing deadline, it may require the processor to file an alternative form of security during the extended period, other than the form specified in section 4.5.2. DFO may reject alternative forms of security it finds unacceptable.

4.5.6 FAILURE TO PROVIDE. If a processor fails to file security with DFO by the final deadline date specified under section 4.5.5 (c), DFO may cease to supply milk to the processor.

4.5.7 RELEASE OF SECURITY. DFO may, upon written request by a processor, release security filed under section 4.5 if any of the following occurs:

- (a) The processor meets the requirements of section 4.4.2 for a period of one year based on the financial statements provided under section 4.3.2.
- (b) The processor demonstrates, to DFO's satisfaction, that the amount of security on file exceeds the amount required under section 4.5, and the processor requests that DFO release the excess security.
- (c) The processor files alternative security in a form and amount satisfactory to DFO.
- (d) The processor has ceased purchasing milk from DFO and has paid in full for all milk purchases.

4.5.8 REALIZATION ON SECURITY. DFO may realize on any security under section 4.5 if either of the following occurs:

- (a) The processor's account for milk purchases is one day overdue from the payment date under section 4.6.1.
- (b) The processor has ceased purchasing milk from DFO and has not paid its account with DFO in accordance with section 4.6.1.

4.6 Collections

4.6.1 PAYMENT DATE. Every processor shall pay to DFO the amount payable for milk supplied to the processor in any month in accordance with the terms and conditions set forth on the delivered invoice.

4.6.2 LATE PAYMENTS.

(a) If a processor's payment on account is more than one business day overdue from the payment date under section 4.6.1 the processor's payment will be deemed a late payment and DFO, at its sole discretion, may:

1. Realize on security if security has been filed in accordance with this credit program.
2. Cease shipment of milk to the processor until such time as the processor's account is paid to DFO's satisfaction and the processor meets the requirements of this credit program.
3. Charge interest at an annual rate equivalent to the Canadian Imperial Bank of Commerce prime interest rate plus 5%, compounded monthly.

(b) If a processor's payment on account is late, as defined under paragraph (a), twice in a rolling 12-month period, the processor shall be required to file, within 30 days of written notice, security with DFO in accordance with section 4.5 and for a period of one year, in the amount equivalent to one month's milk purchases. Milk purchases will be based on the processor's highest month's purchases over the preceding 12-month period.

(c) If a processor's payment on account is late, as defined under paragraph (a), more than twice in a rolling 12-month period, the processor shall be required to file, within 30 days of written notice, security with DFO in accordance with section 4.5 and for a period of one year, in the amount equivalent to two month's milk purchases. Milk purchases will be based on the processor's two highest consecutive months' purchases over the preceding 12-month period.

Schedule 1 – Credit Scores

1.1 Ratio of Current Assets to Current Liabilities

If a processor's ratio of current assets to current liabilities is:
The credit score is:

< 0.80				0
≥ 0.80	and	< 0.85		1
≥ 0.85	and	< 0.90		2
≥ 0.90	and	< 0.95		3
≥ 0.95	and	< 1.00		4
≥ 1.00	and	< 1.05		5
≥ 1.05	and	< 1.10		6
≥ 1.10	and	< 1.15		7
≥ 1.15	and	< 1.20		8
≥ 1.20	and	< 1.25		9
≥ 1.25	and	< 1.30		10
≥ 1.30	and	< 1.35		11
≥ 1.35	and	< 1.40		12
≥ 1.40	and	< 1.45		13
≥ 1.45	and	< 1.50		14
≥ 1.50	and	< 1.55		15
≥ 1.55	and	< 1.60		16
≥ 1.60	and	< 1.65		17
≥ 1.65	and	< 1.70		18
≥ 1.70	and	< 1.75		19
≥ 1.75				20

“Current assets” means those assets realizable within one year from the date of the balance sheet (or within the normal operating cycle, where that is longer than a year), including cash, temporary investments, accounts and notes receivable, inventories, prepaid expenses and current portion of future income tax assets.

“Current liabilities” means amounts payable within one year from the date of the balance sheet (or within the normal operating cycle, where that is longer than a year).

Schedule 1 – Credit Scores

1.2 Ratio of Equity to Total Assets

If a processor's ratio of equity to total assets is:			The credit score is:
≥ 0			0
≥ 0	and	< 0.04	1
≥ 0.04	and	< 0.08	2
≥ 0.08	and	< 0.12	3
≥ 0.12	and	< 0.16	4
≥ 0.16	and	< 0.19	5
≥ 0.19	and	< 0.23	6
≥ 0.23	and	< 0.27	7
≥ 0.27	and	< 0.31	8
≥ 0.31	and	< 0.35	9
≥ 0.35	and	< 0.39	10
≥ 0.39	and	< 0.43	11
≥ 0.43	and	< 0.47	12
≥ 0.47	and	< 0.51	13
≥ 0.51	and	< 0.54	14
≥ 0.54	and	< 0.58	15
≥ 0.58	and	< 0.62	16
≥ 0.62	and	< 0.66	17
≥ 0.66	and	< 0.70	18
≥ 0.70	and	< 0.74	19
≥ 0.74			20

“Equity” means the excess of total assets over total liabilities.

Schedule 1 – Credit Scores

1.3 Ratio of Cash Flow to Total Debt Service

If a processor's ratio of cash flow to total debt service is:				The credit score is:
< 1.05				0
≥ 1.05	and	< 1.10		1
≥ 1.10	and	< 1.15		2
≥ 1.15	and	< 1.20		3
≥ 1.20	and	< 1.25		4
≥ 1.25	and	< 1.30		5
≥ 1.30	and	< 1.35		6
≥ 1.35	and	< 1.40		7
≥ 1.40	and	< 1.45		8
≥ 1.45	and	< 1.50		9
≥ 1.50	and	< 1.55		10
≥ 1.55	and	< 1.60		11
≥ 1.60	and	< 1.65		12
≥ 1.65	and	< 1.70		13
≥ 1.70	and	< 1.75		14
≥ 1.75	and	< 1.80		15
≥ 1.80	and	< 1.85		16
≥ 1.85	and	< 1.90		17
≥ 1.90	and	< 1.95		18
≥ 1.95	and	< 2.00		19
≥ 2.00				20

“Cash flow to total debt service” means the result obtained by dividing the total of net income plus non-cash expenses plus interest expense by the total of interest expense plus current maturities of long-term debt.