

CONVENTIONAL MORTGAGE (Newfoundland and Labrador Only)

THIS INDENTURE made at _____, in the Province of Newfoundland and Labrador, Canada this _____ day of _____, 20_____.

1. I/we _____ (the "Borrower") being beneficial owner(s) of all that _____ piece or _____ parcel of _____ land, being [_____] and more particularly described in Schedule "B" annexed hereto (the "Lands") and I/we _____ (the "Covenantor") in consideration of the sum of _____ Dollars (\$) (the "Principal Amount"), lent to the Borrower by HSBC Bank Canada (the "Lender"), whose address is _____ (the "Place of Payment"), the receipt of which sum the Borrower hereby acknowledges, covenants with the Lender that:

2. **Repayment**

The following completed section applies:

Applicable to Fixed Rate Mortgages

The Borrower will pay to the Lender in lawful Canadian Dollars on each payment date at the address set out in this Mortgage or otherwise provided in the Additional Terms and Conditions (as described below) regular payments of principal and interest. The interest rate will be _____ per cent per annum (the "Interest Rate") and will be calculated semi-annually not in advance. Interest on the Principal Amount is payable at the Interest Rate both before and after the Balance Due Date (as described below), default and judgment, until the Principal Amount has been paid in full, as follows:

Interest on all money advanced to the Borrower will be calculated daily at the Interest Rate on the date of each advance up to and including the day preceding the _____ day of _____, _____ to be paid by the Borrower on the date last mentioned (the "Interest Adjustment Date"). At the Lender's option, such interest will either: (i) be payable by the Borrower on the Interest Adjustment Date; (ii) be added to the Principal Amount on the Interest Adjustment Date and bear interest at the Interest Rate; (iii) be deducted by the Lender from any advance or advances which the Lender makes; or (iv) be debited by the Lender from the Borrower's account on the First Regular Payment Date (as described below).

The Borrower will make, thereafter, regular payments of principal together with interest thereon at the Interest Rate in the amount of _____ Dollars (\$ _____) (which include principal and interest) (the "Amount of Each Periodic Payment") on the _____ day of _____, _____ (the "First Payment Date") to and including _____ day of _____, _____ (the

"Balance Due Date"), and the balance of the said Principal Amount then remaining unpaid and all accrued and unpaid interest and other moneys (if any) then owing under this Mortgage shall become due and payable on the Balance Due Date, unless payable prior thereto by virtue of any express provision hereof.

Applicable to Variable Rate Mortgages

The interest rate is the Prime Rate plus (%) per cent per annum (the "Interest Rate").

The Borrower will pay to the Lender in lawful Canadian Dollars on each payment date at the address set out in this Mortgage or as otherwise provided in the Additional Terms and Conditions, regular payments of principal and interest both before and after the Balance Due Date (as described below), default and judgment until the Principal Amount has been paid in full, as follows:

Interest on all money advanced to the Borrower will be calculated daily at the Interest Rate on the date of each advance up to and including the day preceding the day of , to be paid by the Borrower on the date last mentioned (the "Interest Adjustment Date"). Until the Interest Adjustment Date, interest at the Interest Rate on the Principal Amount, or on such part thereof as has been from time to time advanced, calculated from (and including) the date the principal amount or any such part is advanced until (but excluding) the Interest Adjustment Date, will, at the Lender's option, either: (i) be payable by the Borrower on the Interest Adjustment Date; (ii) be added to the Principal Amount on the Interest Adjustment Date and bear interest at the Interest Rate; (iii) be deducted by the Lender from any advance or advances which the Lender makes; or (iv) be debited by the Lender from the Borrower's account on the First Regular Payment Date (as described below).

Following the Interest Adjustment Date, the sum of \$ (the "Amount of Each Periodic Payment") will become due and will be paid, on account of the Principal Amount and interest, on the first day of , (the "First Payment Date") and each and every thereafter up to and including the day of , (the "Balance Due Date") and the balance of the Principal Amount and all interest and other moneys (if any) owing under this Mortgage shall become due and shall be paid on the Balance Due Date, unless payable prior thereto by virtue of any express provision hereof. Reference is made to section 10 of the Additional Terms and Conditions which sets forth semi-annual equivalent interest rates.

3. **Grant of Mortgage**

The Borrower hereby grants, mortgages and charges to and in favour of the Lender all right, title, estate and interest of the Borrower in and to the Lands as security for the payment to the Lender of the Principal Amount, interest thereon and all other monies owing under this Mortgage and the performance of all covenants, agreements and obligations secured by this Mortgage upon the terms set out in this Mortgage.

4. **Additional Terms and Conditions**

The Borrower further agrees that the Additional Terms and Conditions annexed hereto as Schedule "A" form part of this Mortgage.

5. **Permitted Encumbrances**

The Lender acknowledges and consents to the following prior encumbrances affecting the Lands:

(the "Permitted Encumbrances")

The Borrower acknowledges and confirms having received a true copy of this Mortgage, including the Additional Terms and Conditions annexed hereto as Schedule "A".

IN WITNESS WHEREOF the parties hereto have properly executed these presents as to the day and year first above written.

SIGNED, SEALED AND DELIVERED
by
in the presence of:

}

}

Borrower

SIGNED, SEALED AND DELIVERED
by
in the presence of:

}

}

Borrower

SIGNED, SEALED AND DELIVERED
by
in the presence of:

}

}

Covenantor

SIGNED, SEALED AND DELIVERED

by

in the presence of:

Covenantor

CANADA

NEWFOUNDLAND AND LABRADOR

TO WIT:

AFFIDAVIT

We, _____ and _____ both of _____, in the Province of Newfoundland and Labrador, Canada, make oath and say as follows:

1. THAT we are the mortgagors named in the within Mortgage and as such have personal knowledge of the facts herein deposed to.
2. THAT we are both at least nineteen (19) years of age.
3. THAT the property described in the attached Mortgage is a matrimonial home under the provisions of the Section 6(1)(b) of the *Family Law Act*, R.S.N.L. 1990, c. F-2, as amended or replaced from time to time (the "*Family Law Act*").
4. THAT the word "spouse" as hereinafter defined means a spouse as defined in the *Family Law Act*.
5. THAT we are spouses of each other.
6. THAT there are no other persons who have any unregistered interest in the herein described property pursuant to the *Family Law Act* or any agreement entered into by any of the undersigned.
7. THAT at the time of execution of the attached Mortgage, we are and will continue to be, at least until the registration of this Mortgage, residents of Canada within the intent and meaning of the *Income Tax Act of Canada, 1972* and amendments thereto.
8. THAT when we executed the attached instrument we were not and will continue not to liable for any tax imposed under the *Retail Sales Tax Act*, R.S.N.L. 1990, c. R-15 as amended, at least until the registration of this instrument and we have not operated a commercial venture required to collect or pay a Provincial tax or royalty.
9. THAT to the best of our knowledge, information and belief, at this date there are no statutory liens of any kind whatsoever charging or encumbering our assets and specifically the property herein more particularly described in the attached instrument.
10. THAT no leased equipment, either fixed or otherwise, is contained within the property described in the within Mortgage.

11. THAT we are not employers under either the *Labour Standards Act*, R.S.N.L. 1990, c. L-2, the *Workplace Health, Safety and Compensation Act*, R.S.N.L. 1990, c.W-11 or the *Health and Post Secondary Education Tax Act*, R.S.N.L. 1990, c.H-1.
12. THAT neither of us has made an assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended.
13. THAT we understand that it is an offence to give false information in an Affidavit.

SWORN/AFFIRMED before me at the
City of _____, in the Province
of Newfoundland and Labrador, this
day of _____, _____.

}

AFFIDAVIT OF EXECUTION

I, _____, of _____ in the
Province of _____ Canada, make oath and say that I was
personally present and did see _____ and
_____, the party(ies) named and described in the foregoing Indenture, duly
execute the same and that I am the subscribing witness to such execution.

SWORN/AFFIRMED before me at _____
aforesaid

this _____ day of _____,
20____.



SCHEDULE A
ADDITIONAL TERMS AND CONDITIONS
CONVENTIONAL MORTGAGE (NEWFOUNDLAND AND LABRADOR ONLY)

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1. DEFINITIONS

In this Mortgage and set of Additional Terms and Conditions:

- (a) “Additional Principal Amounts” means any additional principal amounts advanced by the Lender to the Borrower at the Lender’s option, from time to time under this Mortgage.
- (b) “Amount of Each Periodic Payment” means the amount set out in this Mortgage or such other amount as may be agreed to between the parties.
- (c) “Balance Due Date” means the date set out in this Mortgage on which the outstanding Principal Amount, and all accrued and unpaid interest and other moneys (if any) owing under this Mortgage, are due and payable.
- (d) “Borrower” means the person or persons who have signed this Mortgage as borrower(s) or mortgagor(s) and his, her or its successors and permitted assigns.
- (e) “CMHC” means Canada Mortgage and Housing Corporation.
- (f) “CMHC-insured Mortgage” means a mortgage which is insured by CMHC and governed by the *National Housing Act*, R.S.C. 1985, c.N-11, as amended or replaced from time to time.
- (g) “*Condominium Act*” means the *Condominium Act*, R.S.N.L. 1990, c. C-29, as amended or replaced from time to time.
- (h) “Condominium Corporation” means the condominium corporation created pursuant to the *Condominium Act* and governing the administration of the Unit or Units of which the Lands form part.
- (i) “*Conveyancing Act*” means the *Conveyancing Act*, R.S.N.L. 1990, c. C-34, as amended or replaced from time to time.
- (j) “Covenantor” means any person who has executed this Mortgage as a covenantor or who, as a covenantor, has otherwise covenanted in writing to pay the Principal Amount, interest thereon and all other monies owing to the Lender under this Mortgage.
- (k) “First Payment Date” means the date as set out in this Mortgage as the date the first payment is due.
- (l) “Fixed Rate Mortgage” means a mortgage which is referred to as a “Fixed Rate Mortgage” in the Loan Agreement.
- (m) “Fixtures” means fixtures and improvements, fixed or otherwise including, without limiting the generality of the foregoing, all fences, above ground and underground storage tanks, heating, piping, plumbing, aerials, air conditioning,

ventilating, lighting and water heating equipment, cooking and refrigeration equipment, cleaning and drying equipment, appliances, window blinds, radiators and covers, fixed mirrors, storm windows and storm doors, window screens and screen doors, shutters and awnings, floor coverings, and all apparatus and equipment appurtenant thereto, and all farm machinery and improvements, fixed or otherwise and even though not attached to the lands otherwise than by their own weight.

- (n) “Interest Adjustment Date” means the date set out in this Mortgage.
- (o) “Interest Rate” means the percentage per annum set out in this Mortgage, or such other rate as may be agreed to between the Lender and the Borrower. Where the rate set out in this Mortgage includes a reference to the Prime Rate, the Interest Rate in such instance shall vary as at the date of any change in the Prime Rate.
- (p) “Lands” means the entire right, title and interest of the Borrower in and to the lands and premises set out or referred to in this Mortgage, together with all buildings, erections and Fixtures now on or hereafter put upon such lands.
- (q) “Lease” or “Leases” includes a written or unwritten lease, sublease, agreement to lease, tenancy, licence, right of use or occupation, right of first refusal to lease, option to lease or licence, together with all renewals, extensions, modifications, replacements and assignments thereof.
- (r) “Leasehold Rents” means all rents and other payments due or accruing due or at any time hereafter to become due and payable by the Borrower pursuant to Leases, including taxes, assessments, rates, costs or charges of whatever kind.
- (s) “Lender” means HSBC Bank Canada, its successors and any person to whom this Mortgage is transferred.
- (t) “Loan Agreement” means the loan agreement and cost of borrowing disclosure statement entered into between the Borrower and the Lender in connection with this Mortgage and includes all schedules and addenda thereto and any renewal and amendments or substitutions thereof.
- (u) “*Mechanics’ Lien Act*” means the *Mechanics’ Lien Act*, R.S.N.L. 1990, c.M-3, as amended or replaced from time to time.
- (v) “Outstanding Principal Amount” means the aggregate of the portion of the Principal Amount and any Additional Principal Amounts that are outstanding from time to time under this Mortgage.
- (w) “Payment Date” or “Payment Dates” means those date or dates or day or days set out in this Mortgage or such other date or dates or day or days as may be agreed to between the parties.

- (x) “Permitted Encumbrances” means the prior encumbrances set out or referred to in this Mortgage, or such other encumbrances as may be consented to in writing by the Lender.
- (y) “Place of Payment” means the address set out in this Mortgage, or such other place as the Lender may designate from time to time.
- (z) “Prime Rate” means the floating annual rate of interest established and announced as such from time to time by the Lender as a reference rate for determining interest rates it will charge on loans denominated in Canadian dollars in Canada.
- (aa) “Principal Amount” means the aggregate authorized principal amount set out in this Mortgage.
- (bb) “Rents” means all rents and other monies due or accruing due or at any time hereafter to become due pursuant to any Leases with respect to the Lands or any part thereof and the benefit of all guarantees of payment and all covenants to pay therein.
- (cc) “Reversion” has the meaning given to it in section 14 of this set of Additional Terms and Conditions.
- (dd) “Taxes” means all taxes, duties, assessments and local improvement rates chargeable against the Lands and all penalties and interest payable in connection therewith.
- (ee) “Term” means the period of time from the Interest Adjustment Date to the Balance Due Date, or such other period of time as may be agreed upon by the parties.
- (ff) “this Mortgage” means this agreement and the schedules attached to it, and this set of Additional Terms and Conditions, as the same may be amended from time to time.
- (gg) “Unit” has the meaning given to it in the *Condominium Act*.
- (hh) “Variable Rate Mortgage” means a mortgage which is referred to as a “Variable Rate Mortgage” in the Loan Agreement.

2. CHARGE

For valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Borrower hereby grants, mortgages and charges to and in favour of the Lender all right, title, estate and interest of the Borrower in and to the Lands as security for the payment to the Lender of the Principal Amount, interest thereon and all other monies owing under this Mortgage and the performance of all covenants, agreements and obligations secured by this Mortgage upon the terms set out in this Mortgage.

3. INTEREST RATE

(a) Fixed Rate Mortgage

If this Mortgage is a Fixed Rate Mortgage, the rate of interest chargeable on the Outstanding Principal Amount and all other monies payable under this Mortgage shall be the Interest Rate, calculated half-yearly, not in advance, as well after as before maturity, default and judgment until payment in full.

(b) Variable Rate Mortgage

If this Mortgage is a Variable Rate Mortgage, the rate of interest chargeable on the Outstanding Principal Amount and all other monies payable under this Mortgage shall be the Interest Rate, calculated monthly, not in advance, as well after as before maturity, default and judgment until payment in full.

The Interest Rate will vary automatically, without notice to the Borrower, each time there is a change in the Prime Rate. The Interest Rate will always be the Prime Rate as adjusted by the number of percentage points per annum, if any, set out or referred to in this Mortgage, calculated monthly, not in advance.

In the event that it may be necessary at any time for the Lender to prove the Prime Rate applicable as at any time or times, a certificate in writing of an authorized employee of the Lender setting forth the Prime Rate as at any time or times shall be deemed to be *prima facie* evidence as to the Prime Rate at such time.

The Interest Rate calculated monthly not in advance is equivalent to the rate of interest calculated half-yearly not in advance shown in the equivalent rate table found in section 10 of this set of Additional Terms and Conditions. The Borrower may determine the equivalent rate by locating the Interest Rate in the column entitled "Interest Rate Calculated Monthly Not in Advance (%)" and comparing that rate of interest to the rate of interest indicated in the column immediately to the right of such rate of interest entitled "Equivalent Interest Rate Calculated Half-Yearly Not in Advance (%)".

(c) Maximum Legal Interest Rate

If the Interest Rate would, except for this section 3, exceed the maximum rate permitted under the laws of Newfoundland and Labrador or the laws of Canada having effect in Newfoundland and Labrador, then the Interest Rate shall be such maximum rate.

4. REDEMPTION PROVISION

Subject to section 8 of this set of Additional Terms and Conditions, this Mortgage except for section 24 shall, on request from the Borrower to the Lender in writing, be void:

- (a) on payment to the Lender of the Principal Amount plus interest thereon at the Interest Rate, as follows:

- (i) Interest at the Interest Rate on the Principal Amount advanced, computed from the date of such advance up to and including the Interest Adjustment Date shall become due and be paid on the Interest Adjustment Date. At the option of the Lender, interest so due and payable may be deducted from any such advance;
 - (ii) Thereafter, the Principal Amount advanced, together with interest thereon at the Interest Rate, computed from the Interest Adjustment Date, shall become due and be paid by regular instalments in the Amount of Each Periodic Payment on each and every Payment Date from and including the First Payment Date, to and including the Balance Due Date, and the balance, if any, of the Principal Amount and interest thereon, shall become due and be paid on the Balance Due Date;
- (b) on payment to the Lender of any Additional Principal Amounts with interest thereon at the Interest Rate at the times and in the manner agreed to by the Borrower and the Lender,
 - (c) on payment of all other monies owing by the Borrower under this Mortgage; and
 - (d) on the observance and performance of all covenants, provisos and conditions required to be observed or performed by the Borrower under this Mortgage.

5. APPLICATION OF PAYMENTS

So long as the Borrower is not in default under this Mortgage the Lender shall apply the Amount of Each Periodic Payment and any other payment that may be made from time to time by the Borrower in the manner set out in the Loan Agreement.

On default by the Borrower, the Lender may apply any payments received during the period of default in whatever order and amounts it may elect as between principal, interest, Taxes, insurance premiums, repairs, or other monies payable by the Borrower under this Mortgage.

6. WITHHOLDINGS FROM PAYMENTS

If the Borrower is required by law to make any deduction or withholding from any sum payable by the Borrower to the Lender under this Mortgage, then the sum payable by the Borrower shall be increased to the extent necessary to ensure that, after making such deduction or withholding, the Lender receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which the Lender would have received and so retained had no such deduction or withholding been made or required to be made; and the Borrower shall pay the full amount to be deducted or withheld to the relevant taxation or other authority within the time allowed for such payment under applicable law and shall deliver to the Lender within thirty (30) days after such payment a receipt issued by such authority evidencing such payment. Alternatively, the Lender, at its option, may agree to make such deduction and remit same to the relevant taxation or other authority on behalf of the Borrower. If the Lender remits amounts on behalf of the Borrower, the Borrower shall remain liable for all amounts owing to the relevant taxation or other authority and shall pay to the Lender, on demand, any

additional amounts that may be payable to the taxation or other authority or shall provide evidence that the full amount has been paid to the taxation or other authority.

7. COMPOUND INTEREST

If default is made in payment of interest at any time appointed for payment thereof, interest shall be payable thereon and the sum in arrears for interest from time to time, as well after as before maturity or judgment, shall itself bear interest at the Interest Rate, and in case the interest and compound interest are not paid on the next Payment Date after the date of default, compound interest at the Interest Rate shall be payable on the aggregate amount then due, as well after as before maturity or judgment, and so on from time to time, and all such interest and compound interest shall be added to the monies secured by this Mortgage and form a charge on the Lands.

8. ADDITIONAL ADVANCES

Upon repayment to the Lender of the Principal Amount in whole or in part, the Borrower may from time to time, at the Lender's option, borrow Additional Principal Amounts, in which event, this Mortgage will remain as security for the Outstanding Principal Amount, interest and other monies from time to time owing by the Borrower to the Lender whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, provided that this Mortgage at any one time secures only that portion of the Outstanding Principal Amount not exceeding the Principal Amount, together with any interest or compound interest accrued on the Outstanding Principal Amount at the Interest Rate and other amounts secured hereby.

This Mortgage will be general and continuing security and is made to secure a current or running account. For greater certainty, this Mortgage shall not be deemed to have been redeemed by reason only that: (a) advances made under it are repaid; or (b) the account of the Borrower with the Lender ceases to be in debit.

Notwithstanding anything contained in this Mortgage, the Lender may, at its option and without notice to the Borrower, or at the Borrower's request, provide a discharge of this Mortgage at any time when there are no monies owing or liabilities outstanding to the Lender from the Borrower.

9. PREPAYMENT

The Borrower has no right to prepay all or any part of the Principal Amount except as set out in the Loan Agreement or as otherwise agreed to between the Lender and the Borrower from time to time.

10. EQUIVALENT INTEREST RATES

The following table sets out interest rates calculated half-yearly, not in advance which are equivalent to interest rates calculated monthly, not in advance for a Variable Rate Mortgage. The equivalent rate table is for disclosure purposes of the *Interest Act* (Canada) and does not affect the calculation of interest under a Variable Rate Mortgage. The Borrower may determine the equivalent rate by locating the Interest Rate in the column entitled "Interest Rate Calculated

Monthly Not in Advance (%)” and comparing that rate of interest to the rate of interest indicated in the column immediately to the right of such rate of interest entitled “Equivalent Interest Rate Calculated Half-Yearly Not in Advance (%)”.

EQUIVALENT RATE TABLE

Interest Rate Calculated Monthly Not in Advance (%)	Equivalent Interest Rate Calculated Half-Yearly Not In Advance (%)	Interest Rate Calculated Monthly Not In Advance (%)	Equivalent Interest Rate Calculated Half-Yearly Not In Advance (%)
2.000	2.00835	14.500	14.94514
2.125	2.13443	14.625	15.07791
2.250	2.26057	14.750	15.21075
2.375	2.38678	14.875	15.34366
2.500	2.51306	15.000	15.47664
2.625	2.63940	15.125	15.60968
2.750	2.76580	15.250	15.74279
2.875	2.89228	15.375	15.87597
3.000	3.01881	15.500	16.00922
3.125	3.14542	15.625	16.14254
3.250	3.27208	15.750	16.27593
3.375	3.39882	15.875	16.40939
3.500	3.52562	16.000	16.54291
3.625	3.65249	16.125	16.67650
3.750	3.77942	16.250	16.81016
3.875	3.90642	16.375	16.94389
4.000	4.03348	16.500	17.07769
4.125	4.16061	16.625	17.21156
4.250	4.28781	16.750	17.34550
4.375	4.41507	16.875	17.47950
4.500	4.54240	17.000	17.61358
4.625	4.66979	17.125	17.74772
4.750	4.79725	17.250	17.88193
4.875	4.92478	17.375	18.01621
5.000	5.05237	17.500	18.15056
5.125	5.18003	17.625	18.28498
5.250	5.30776	17.750	18.41947
5.375	5.43555	17.875	18.55403
5.500	5.56341	18.000	18.68865
5.625	5.69133	18.125	18.82335
5.750	5.81932	18.250	18.95811
5.875	5.94738	18.375	19.09295
6.000	6.07550	18.500	19.22785
6.125	6.20260	18.625	19.36282

Interest Rate Calculated Monthly Not in Advance (%)	Equivalent Interest Rate Calculated Half-Yearly Not In Advance (%)	Interest Rate Calculated Monthly Not In Advance (%)	Equivalent Interest Rate Calculated Half-Yearly Not In Advance (%)
6.250	6.33195	18.750	19.49766
6.375	6.46027	18.825	19.63297
6.500	6.58866	19.000	19.76815
6.625	6.71711	19.125	19.90340
6.750	6.84564	19.250	20.03872
6.875	6.97423	19.375	20.17411
7.000	7.10288	19.500	20.30956
7.125	7.23160	19.625	20.44509
7.250	7.36039	19.750	20.58068
7.375	7.48925	19.875	20.71635
7.500	7.61817	20.000	20.85208
7.625	7.74716	20.125	20.98789
7.750	7.87621	20.250	21.12376
7.875	8.00534	20.375	21.25971
8.000	8.13452	20.500	21.39572
8.125	8.26378	20.625	21.53180
8.250	8.39310	20.750	21.66796
8.375	8.52249	20.875	21.80418
8.500	8.65195	21.000	21.94047
8.625	8.78147	21.125	22.07683
8.750	8.91106	21.250	22.21326
8.875	9.04072	21.375	22.34977
9.000	9.17045	21.500	22.48634
9.125	9.30024	21.625	22.62298
9.250	9.43010	21.750	22.75969
9.375	9.56002	21.875	22.89647
9.500	9.69002	22.000	23.03332
9.625	9.82008	22.125	23.17024
9.750	9.95021	22.250	23.30724
9.875	10.08040	22.375	23.44430
10.000	10.21066	22.500	23.58143
10.125	10.34099	22.625	23.71863
10.250	10.47139	22.750	23.85590
10.375	10.60185	22.875	23.99324
10.500	10.73238	23.000	24.13066
10.625	10.86298	23.125	24.26814
10.750	10.99365	23.250	24.40569
10.875	11.12438	23.375	24.54331
11.000	11.25510	23.500	24.68101

Interest Rate Calculated Monthly Not in Advance (%)	Equivalent Interest Rate Calculated Half-Yearly Not In Advance (%)	Interest Rate Calculated Monthly Not In Advance (%)	Equivalent Interest Rate Calculated Half-Yearly Not In Advance (%)
11.125	11.38605	23.625	24.81877
11.250	11.51699	23.750	24.95660
11.375	11.64800	23.875	25.09451
11.500	11.77909	24.000	25.23248
11.625	11.91021	24.125	25.37053
11.750	12.04141	24.250	25.50865
11.875	12.17269	24.375	25.64683
12.000	12.30403	24.500	25.78509
12.125	12.43544	24.625	25.92342
12.250	12.56692	24.750	26.06181
12.375	12.69846	24.875	26.20028
12.500	12.83008	25.000	26.33882
12.625	12.96176	25.125	26.47743
12.750	13.09351	25.250	26.61611
12.875	13.22533	25.375	26.75486
13.000	13.35721	25.500	26.89369
13.125	13.48916	25.625	27.03258
13.250	13.62118	25.750	27.17154
13.375	13.75327	25.875	27.31058
13.500	13.88543	26.000	27.44969
13.625	14.01766	26.125	27.58886
13.750	14.14995	26.250	27.72811
13.875	14.28231	26.375	27.86743
14.000	14.41474	26.500	28.00682
14.125	14.54724	26.625	28.14628
14.250	14.67981	26.750	28.28581
14.375	14.81244	26.875	28.42541

11. TAXES

The Borrower shall pay or cause to be paid all Taxes as they fall due and shall provide the Lender with receipts confirming such payment within thirty (30) days after they become due. If the Borrower fails to make such payments, as required in this section 11, the Lender shall be entitled but shall not be obliged to make those payments and the amounts thereof shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands.

The Borrower shall provide to the Lender the assessment notices, tax bills and other notices effecting the imposition of Taxes immediately upon receipt by the Borrower.

12. COVENANTS OF THE BORROWER

In this section 12, “mortgage money” means the Principal Amount, interest and all other monies owing by the Borrower to the Lender under this Mortgage.

The Borrower covenants with the Lender that:

- (a) the Borrower will pay the mortgage money;
- (b) if this Mortgage is a mortgage of a fee simple estate, the Borrower has a good title in fee simple to the Lands;
- (c) the Borrower has the right to mortgage the Lands to the Lender;
- (d) on default the Lender shall have quiet possession of the Lands free from all encumbrances, other than Permitted Encumbrances;
- (e) the Borrower will execute such further assurances of the Lands as may be required by the Lender;
- (f) the Borrower has done nothing to encumber the Lands, other than Permitted Encumbrances;
- (g) the Borrower releases to the Lender all his, her or its claims on the Lands subject to the redemption provision; and
- (h) provided that until default of payment, the Borrower shall have quiet possession of the Lands.

13. INSURANCE

The Borrower shall immediately insure and keep insured in favour of the Lender against loss or damage by fire and other insurable risks, hazards and perils which the Lender may require, including risks and perils covered by an “all risks” policy, for the full insurable value in lawful money of Canada on a replacement cost basis, each and every building on the Lands and which may hereafter be constructed thereon, both during construction and thereafter and all Fixtures, and all other risks, hazards and perils of any nature or kind which the Lender may require depending on the nature of the Lands or the use thereof, with an insurance company duly authorized to carry on business as such and shall pay all premiums and sums of money necessary for such purpose when due. Each policy of insurance shall provide that any loss shall be payable to the Lender in priority to every person, subject to an Insurance Bureau of Canada approved standard mortgage clause or other mortgage clause acceptable to the Lender, and shall contain an undertaking by the insurer to notify the Lender in writing, not less than fifteen (15) days prior to any material change, cancellation, failure to renew, or termination thereof.

The Borrower has delivered to the Lender a copy of the policy or policies evidencing the insurance and any receipts for the premiums thereon and will provide to the Lender, at least fifteen (15) days prior to the expiry of a policy or at least five (5) days prior to the termination or cancellation of any policy, evidence of renewal or replacement of the policy.

If the Borrower is in breach of any of the covenants in this section 13, the Lender shall be entitled but shall not be obliged to obtain insurance for the Lands or any part thereof, with no duty to account for the proceeds thereof, and if the Lender pays any premiums or sums for such purpose the amount of such payment shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands.

If all or any part of the Lands are damaged or destroyed, the Borrower shall immediately furnish at the Borrower's own expense all necessary proofs of claim and do all necessary acts to enable the Lender to obtain payment of the insurance monies. The production of a copy of this Mortgage shall be sufficient authority for any insurance company to pay any such loss to the Lender or to accept instructions from the Lender dealing with the loss.

Any insurance monies received may, at the option of the Lender and in such amounts as it elects, be applied in rebuilding, reinstating or repairing the Lands, be applied to such portion of principal, interest, or other monies secured by this Mortgage whether due or not, or be paid to the Borrower or any other person appearing by the registered title to be or to have been the owner of the Lands. No damage may be repaired nor any reconstruction effected by the Borrower without the prior written approval of the Lender.

If all or any part of the Lands is or becomes one or more Units, the Borrower shall, or shall cause the respective Condominium Corporation, to observe and perform all covenants required to be observed and performed by the Borrower in this section 13, and shall:

- (a) immediately on the happening of any loss or damage to the Lands, comply fully with the terms of the policy or policies of insurance and, without limiting the generality of the obligation of the Borrower under section 38 (Condominium Unit), with the insurance provisions relating to the Unit or each Unit;
- (b) cause any insurance monies to be made payable to the Condominium Corporation or, if any insurance trustees are designated by the bylaws, to the named insurance trustees, and to be made payable firstly to the Lender in the event that the Condominium Corporation resolves not to repair or replace the damaged Unit, property, common elements and other insurable improvements in respect thereof;
- (c) cause all applicable policies of insurance to contain an Insurance Bureau of Canada approved standard mortgage clause or other mortgage clause acceptable to the Lender to be effective in the event that the Condominium Corporation resolves not to repair or replace the damaged Unit, buildings, common property, common facilities and insurable improvements in respect thereof; and
- (d) if, in the reasonable opinion of the Lender, the insurance carried by the Condominium Corporation is deemed inadequate, at the Lender's request, carry a separate policy of insurance on each Unit forming part of the Lands at the Borrower's own cost.

In the event any provisions of this Mortgage are in conflict with those of the *Insurance Contracts Act*, R.S.N.L. 1990, c. I-12, the *Fire Insurance Act*, R.S.N.L. 1990, c. F-10 or the *Fire Prevention Act*, 1991, S.N.L. 1991, c. 34, the provisions of this Mortgage shall prevail and the

Borrower hereby expressly waives any rights, privileges or benefits to which it would otherwise be entitled under such legislation or any legislation enacted in replacement thereof.

14. LEASEHOLD PROVISIONS

If the interest of the Borrower in all or any part of the Lands derives from a Lease or Leases, then the following additional provisions apply with respect to such interest and to each Lease:

- (a) The Borrower hereby grants, mortgages, demises, subleases and charges to the Lender all estate, term, right, title and interest of the Borrower in and to the Lease and the Lands together with any and all other, further or additional estate, term, right, title and interest therein or any part thereof acquired by the Borrower and all benefit and advantage therefrom including any right or option to purchase or to lease, to have and to hold for and during the remainder of the term of the Lease, save and except the last day thereof (the "Reversion"), as security for the payment to the Lender of the Principal Amount, interest thereon and all other monies owing under this Mortgage and the performance of all covenants, agreements and obligations secured by this Mortgage upon the terms set out in this Mortgage.
- (b) If the Lease requires the consent of the lessor under the Lease to the mortgage, demise, sublease and charge created by this Mortgage, such mortgage, demise, sublease and charge shall not become effective until, but shall become effective immediately when, all consents necessary for the validity and effectiveness of this Mortgage have been obtained or have become unnecessary, and the Borrower shall immediately obtain and provide to the Lender all such consents.
- (c) The Borrower represents and warrants to the Lender as follows:
 - (i) the Borrower has good leasehold title to the Lands free and clear of any liens, charges and other encumbrances except those specifically approved in writing by the Lender;
 - (ii) the Lease is, at the time of execution and delivery of this Mortgage, a good, valid and subsisting Lease and has not been surrendered or forfeited or become void or voidable and the Borrower has not done or failed to do any act as a result of which the Lease would be rendered invalid or its validity impaired;
 - (iii) there have been no modifications to the Lease that have not been provided to the Lender;
 - (iv) the Leasehold Rents, covenants and conditions contained in the Lease have been duly paid, observed and performed by the Borrower up to the date of this Mortgage;
 - (v) the Borrower has a good right, full power and lawful and absolute authority to mortgage, demise, sublease and charge the Lease to the

Lender in the manner aforesaid and has obtained the consent of the lessor under the Lease to this Mortgage to the extent required under the Lease.

- (d) The Borrower shall stand possessed of the Reversion in trust for the Lender to assign and dispose of the Reversion or any renewal or substituted term of the Lease in such manner as the Lender may direct (subject to the right of redemption in this Mortgage).
- (e) The Borrower shall pay the Leasehold Rents and shall observe and perform all covenants contained in the Lease and shall not be guilty of any acts or default which may cause the Lease to be forfeited or determined and the Borrower shall indemnify the Lender against all actions, claims and demands whatsoever in respect of the Leasehold Rents and anything relating to the Lease.
- (f) The Borrower shall not transfer, assign, sublease, surrender or terminate the Lease or any of the Borrower's rights of interest in the Lease except as provided in this Mortgage.
- (g) The Borrower shall not alter the Lease or permit any amendment of the terms of the Lease without the prior written consent of the Lender.
- (h) The Borrower shall not allow any options (to renew or otherwise) or any rights of first refusal under the Lease to lapse and, subject to any contrary directions from the Lender, shall exercise any such options or rights so as to maintain or continue the term of the Lease.
- (i) Any breach or default under the Lease shall be deemed to be a default under this Mortgage entitling the Lender to demand repayment of all monies secured by this Mortgage with accrued interest thereon.
- (j) If the Borrower becomes the owner of the freehold of the lands and premises demised by the Lease, this Mortgage shall increase to be a mortgage of the freehold interest in such lands and premises to the same extent and effect as if the Borrower had been the owner of the freehold, free from encumbrances, at the date of this Mortgage. For the purpose of giving effect to the foregoing, the Borrower does hereby grant, mortgage and charge the freehold interest in the lands and premises demised by the Lease to and in favour of the Lender, such grant, mortgage and charge to take effect upon the Borrower acquiring freehold title to such lands and premises.
- (k) The Borrower shall immediately notify the Lender of any notice or advice from the lessor under the Lease of the lessor's intention to terminate the Lease prior to the expiration of the term of the Lease or any other notice or request received from the lessor.
- (l) In the event of any default under the Lease, the Lender shall, at its option but without incurring any liability to do so, be entitled to pay such Leasehold Rents or observe or perform such covenant, and all monies expended by the Lender in so doing shall be payable immediately by the Borrower, be added to the monies

secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Borrower's leasehold interest in the Lands.

- (m) The Borrower hereby irrevocably appoints the Lender to be the attorney of the Borrower during the continuance of this Mortgage to assign the term of the Lease as the Lender may at any time direct, to enforce any covenants of the lessor under the Lease, to exercise any options to renew the Lease in the Lender's discretion and to execute any other document or do any other act or thing which the Lender is permitted or the Borrower is permitted or required to do under the provisions of the Lease.
- (n) Any reference in this Mortgage to any charges payable in respect of the Lands shall include all taxes, assessments, rates, costs or charges of whatever kind payable by the Borrower under the Lease.
- (o) No action taken by the Lender pursuant to this section 14 will make the Lender a mortgagee in possession.

15. LIENS AND CONSTRUCTION

The Borrower shall not permit any lien to be acquired against the Lands or any part thereof under the *Mechanics' Lien Act*, or under any other statute or law. In the event that a lien is registered against the Lands or any part thereof, the Lender may, but shall not be obliged to, pay such amounts as may be required to remove such lien from title. Any monies so paid by the Lender, together with all costs, charges, and expenses incurred by the Lender in connection therewith, (including, without limitation, legal fees and disbursements on an indemnity basis and in no event less than on a solicitor and client basis), shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands.

If this Mortgage relates to construction on the Lands, subject to section 29, the Lender may make advances to the Borrower under this Mortgage based on progress in completing the improvement or upon its completion or, in the case of a building, its occupation or sale. Whatever the purpose of this Mortgage, the Lender may retain funds from any advance or advances until it is completely satisfied that the holdback provisions of the *Mechanics' Lien Act* have been complied with.

If this is a CMHC-insured Mortgage, the Borrower covenants and agrees with the Lender to construct a building or buildings and other improvements on the Lands in accordance with the plans and specifications that have been or are hereafter approved by CMHC and by the Lender and to carry on diligently to complete the construction of the said building, buildings and other improvements.

16. WASTE, VACANCY AND REPAIR

The Borrower shall not commit or permit waste on the Lands and shall maintain or cause to be maintained the buildings and Fixtures on the Lands in good order and repair to the satisfaction of the Lender and shall not permit any such buildings to be or become vacant.

The Lender may, but shall not be obliged to, make such repairs, improvements and alterations as it may deem necessary to complete the construction or reconstruction of any building on the Lands, and the costs, charges and expenses incurred by the Lender in connection therewith shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands. No action taken by the Lender pursuant to this section 16 will make the Lender a mortgagee in possession.

17. INSPECTION

The Lender, its agent, or where applicable, CMHC, or its agent, may, at any time, and for any purpose deemed necessary by the Lender or CMHC enter upon the Lands to conduct any investigations, audits and inspections of or with respect to the Lands, including but not limited to environmental testing, site assessment, investigation or study, and the costs, charges and expenses incurred in connection therewith shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands. No action taken by the Lender or CMHC or their agents pursuant to this section 17 will make any of them a mortgagee in possession.

18. ATLANTIC HOME WARRANTY PROGRAM

If any building erected or to be erected on the Lands is or will be a new home, the Borrower shall only engage the services of a residential builder duly registered and in good standing with the Atlantic Home Warranty Program, who during the period of engagement is licensed and provides home warranty insurance under the Atlantic Home Warranty Program.

If the terms of any new home warranty plan, program and/or legislation apply to the Lands, the Borrower agrees to comply with the requirements of such plan, program and/or legislation and to reimburse the Lender for any costs which the Lender incurs in complying with such requirements or enforcing the Borrower's rights under such plan, program and/or legislation on the Borrower's behalf if the Borrower fails to do so.

19. PROHIBITION AGAINST RENTAL

The Borrower shall not grant or permit any Leases with respect to the Lands or any part thereof without the written consent of the Lender. The Borrower has and shall not grant Leases at a rent, on terms and conditions and to tenants which are less favourable or desirable to the Borrower than those which a prudent landlord would expect to receive for the Lands or any part thereof to be leased. The Borrower shall not permit the Lands or any part thereof to be used in a rental pool, time-share or short term rental program without the written consent of the Lender. In the event the Borrower breaches any of the representations or covenants in this section 19, all monies secured by this Mortgage with accrued interest thereon shall, at the option of the Lender, immediately become due and payable.

20. FAMILY LAW ACT

If the Borrower is an individual and has a spouse as defined under the *Family Law Act*, R.S.N.L. 1990, c.F-2, as amended or replaced from time to time, the Borrower represents and warrants that at the time of granting this Mortgage:

- (a) none of the events, which under the *Family Law Act* entitles the Borrower's spouse to an interest in the matrimonial home or in matrimonial assets, has occurred; and
- (b) the Borrower has disclosed to the Lender all beneficial interests of the Borrower's spouse in the Lands.

In the event that any of the representations and warranties in this section 20 are false, all monies secured by this Mortgage shall, at the option of the Lender, become immediately due and payable. The Borrower shall advise the Lender of any change or event affecting the spousal status of the Borrower or the right to occupy the Lands.

21. DUE ON SALE

In the event that:

- (a) the Lands or any part thereof or any interest therein is sold, conveyed, transferred, assigned, or otherwise disposed of, or the Borrower enters into any agreement to effect any of the foregoing to any person, without the Lender's prior written approval, or
- (b) an approved purchaser, grantee, transferee or assignee of the title of the Lands should fail to (i) personally assume all of the obligations of the Borrower under this Mortgage, (ii) execute an assumption agreement in the form required by the Lender, and (iii) comply with all other conditions of approval,

then at the option of the Lender all monies secured by this Mortgage with accrued interest thereon shall immediately become due and payable.

22. CHANGE IN CORPORATE CONTROL OR REMOVAL OF TRUSTEE

If without the prior written consent of the Lender, which consent may be refused at the sole discretion of the Lender,

- (a) in the case where the Borrower is a corporation, there is a change in the persons having effective voting control of the Borrower or the Borrower enters into an amalgamation, a merger or similar arrangement; or
- (b) in the case where the Borrower holds title to the Lands as trustee of a trust, the Borrower resigns or is removed or otherwise no longer acts as trustee of such trust,

all monies secured by this Mortgage with accrued interest thereon shall, at the option of the Lender, immediately become due and payable.

23. COMPLIANCE WITH THE LAW

The Borrower shall at all times promptly observe, perform, execute and comply with all applicable laws, rules, requirements, orders, directions, bylaws, ordinances, work orders and regulations of every governmental or administrative authority or agency and all permits, licenses

and approvals issued thereunder whether federal, provincial, municipal or otherwise, including, without limitation those dealing with zoning, use, occupancy, subdivision, parking, historical designations, fire, access, loading facilities, landscaped areas, pollution of the environment, contaminated wastes, or hazardous or toxic materials or other environmental hazards, building construction, public health and safety, and all private covenants and restrictions affecting the Lands or any part thereof.

The Borrower shall from time to time, upon request of the Lender, provide to the Lender evidence of such observance and compliance and shall, at the Borrower's own expense, make any and all improvements or alterations to the Lands, structural or otherwise, and shall take all such other action as may be required at any time by any such present or future law, rule, requirement, order, direction, bylaw, ordinance, work order or regulation. The Borrower shall immediately report to the Lender any non-compliance thereunder involving the Lands.

If the Borrower fails to comply with any such law, rule, requirement, order, direction, bylaw, ordinance, work order or regulation, the Lender shall be entitled but shall not be obliged to take such actions and incur such costs and expenses (including, without limitation, legal fees and disbursements on a full indemnification basis and in no event less than on a solicitor and client basis) to effect such compliance and the amounts thereof shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands.

24. ENVIRONMENTAL COMPLIANCE

To the best of the Borrower's knowledge after due and diligent inquiry, no contaminants, wastes, hazardous or toxic materials are being stored in, on, or about the Lands nor have any contaminants, wastes, hazardous or toxic materials been stored or used in, on, or about the Lands prior to the Borrower's ownership, possession or control of the Lands. The Borrower agrees to provide written notice to the Lender immediately upon the Borrower becoming aware that the Lands are being or have been contaminated with any contaminants, wastes, hazardous or toxic materials. The Borrower will not permit any activities on the Lands which directly or indirectly could result in the Lands being contaminated with contaminants, wastes, hazardous or toxic materials. The representations and warranties contained in this section 24 shall survive and remain in full force and effect notwithstanding any independent inspections, investigations and assessments which the Lender may conduct or cause to be conducted with respect to the Lands.

The Borrower shall pay immediately when due the cost of removal of any contaminants, wastes, or hazardous or toxic materials in, on, or about the Lands.

The Borrower shall indemnify and hold harmless the Lender and its directors, officers, employees and agents from and against all loss, cost, damage or expenses (including, without limitation, legal fees and disbursements on a full indemnification basis and in no event less than on a solicitor and client basis) incurred in the investigation, defence and settlement of any claim due to the Borrower's failure to comply with any statutory regulation, order, bylaw, direction or equivalent relating to the protection of the environment, or due to the presence of any contaminant, waste, or hazardous or toxic material in, on, or about the Lands, as well as any lien or priority asserted with respect thereto, and this indemnity shall survive the discharge of this Mortgage or the release from this Mortgage of part or all of the Lands.

25. MONIES DUE ON DEFAULT

The Outstanding Principal Amount together with accrued interest thereon and any other monies secured by this Mortgage remaining unpaid shall, at the option of the Lender, immediately become due and payable upon the occurrence of any one of the following events (each, a “default”):

- (a) if any payment of any principal, interest or any other monies payable under this Mortgage by the Borrower or any part thereof is not paid when due;
- (b) if the Borrower makes any false statement to the Lender in the Loan Agreement, this Mortgage or in the application for this Mortgage;
- (c) if the Borrower commits an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or becomes bankrupt or insolvent, or if a petition in bankruptcy is filed against the Borrower, or any authorized assignment for the benefit of creditors is made by the Borrower, or if a receiver or trustee for the Borrower or for any of the assets of the Borrower is appointed;
- (d) if all or any part of the Lands are expropriated under the provisions of any law of Canada or any province thereof;
- (e) if any act or thing is done by any person by which the value of the Lands, in the opinion of the Lender, diminishes;
- (f) if the Borrower further encumbers the Lands without the express written consent of the Lender;
- (g) if the Borrower sells, grants an option to purchase, leases, conveys or transfers title to all or part of the Lands, or agrees to do any of the foregoing, without the express written consent of the Lender;
- (h) if all or any part of the Lands are used for an illegal purpose by any person, or if any illegal business is conducted in, on or about the Lands, or if equipment believed by the Lender to be related to an illegal business is installed in, on or about the Lands;
- (i) if the Borrower is in default under any term, covenant, agreement, proviso or condition contained in any other mortgage, security agreement or other agreement to which the Borrower and the Lender are parties, even though the Borrower is not in default under any term, covenant, agreement, proviso or condition contained in this Mortgage;
- (j) if the Borrower is in default in the observance or performance of any of the covenants, agreements, provisos or conditions contained in any mortgage, charge or other encumbrance to which this Mortgage is subject or subordinate, including Permitted Encumbrances;

- (k) upon the registration of any lien or judgment against the Lands or any part thereof, or if any buildings being constructed thereon being allowed to remain unfinished or without any work being done on them for a period of thirty (30) consecutive days;
- (l) if the Borrower is in default under any term, covenant, agreement, proviso or condition contained in any security collateral to this Mortgage or in any agreement entered into relating to or in connection with this Mortgage, including the Loan Agreement; or
- (m) if the Borrower is in breach of any other term, covenant, agreement, proviso or condition contained in this Mortgage, which breach is not rectified within ten (10) days of notice thereof to the Borrower.

The Lender may exercise its rights and remedies hereunder immediately upon default, and the Borrower hereby confirms that, except as may be expressly otherwise provided in this Mortgage, the Lender has not given any covenant, express or implied, and is under no obligation to allow the Borrower any period of time to remedy any default prior to the Lender exercising its rights and remedies under this Mortgage.

26. LENDER'S REMEDIES

On default by the Borrower under this Mortgage, the Lender may, at its option and in any order that it chooses, exercise any one or more of the following remedies:

- (a) demand payment of the Outstanding Principal Amount together with accrued interest thereon and any other monies secured by this Mortgage;
- (b) sue the Borrower, the Covenantor or any other person liable for payment of the monies secured by this Mortgage, for repayment of the Outstanding Principal Amount together with accrued interest thereon and any other monies secured by this Mortgage;
- (c) take any and all legal steps and court proceedings which the Lender in its absolute discretion deems necessary to compel the Borrower to observe and perform the covenants and agreements hereunder;
- (d) on thirty days' notice given to such persons and in such manner and form as provided under the *Conveyancing Act*, without entering into possession of the Lands, lease or sell all or part of the Lands by public auction or private sale, or partly in one way and partly another, for such price as can reasonably be obtained and on such terms as to credit and otherwise and with such conditions of sale and stipulations as to title, or evidence, or commencement of title, or otherwise, as the Lender shall deem proper and, in connection with such lease or sale, the following provisions shall apply subject to the requirements of the *Conveyancing Act*:
 - (i) the Lender may rescind or vary any contract for sale of the Lands or a part thereof and re-sell, without being answerable for any loss occasioned

thereby; and for any of such purposes make and execute all agreements and assurances the Lender deems fit;

- (ii) no purchaser or lessee shall be bound to enquire into the legality, propriety or regularity of any such sale or lease or be affected by notice of any impropriety or irregularity, and no lack or default or want of notice or publication, if any, required shall invalidate any sale or lease, and the Lender shall not be liable for any loss which may arise by any such sale or lease; and the title of any such purchaser or lessee upon a sale or lease shall not be liable to be impeached on the ground that such power had been unauthorized, or improperly or irregularly exercised, or that notice had not been given or had been given improperly;
 - (iii) any person who is adversely affected by an unauthorized, improper or irregular exercise of the power of sale or lease shall have his, her or their remedy, if any, against the person exercising such power in damages only;
 - (iv) until such sale or sales are made, the Lender shall stand possessed of the Rents and profits of the Lands if the Lender takes possession of them on default and after such sale or sales shall stand possessed of the proceeds from such sales, in trust upon payment of, firstly, all the expenses incident to the sales, leases, conveyances, or attempted sales, leases or conveyances, secondly, all costs, charges, damages and expenses of the Lender relating to Taxes, prior charges, if any, Leasehold Rents, insurance premiums, repairs, utilities and any other monies which the Lender may have paid relating to the Lands, thirdly, all interest and costs then due in respect of this Mortgage, fourthly, the Outstanding Principal Amount, fifthly, amounts owing to subsequent encumbrancers, if any, and the residue, shall be paid to the Borrower as the Borrower may direct; and
 - (v) in the case of a sale on credit or for part cash and part credit, the Lender shall only be liable to account for monies actually received;
- (e) distraint upon any goods upon the Lands and by distress warrant to recover by way of rent reserved as in the case of a demise of the Lands as much of the principal, interest or other monies secured by this Mortgage as shall from time to time be in arrears, together with all costs, charges and expenses (including, without limitation, legal fees and disbursements on a full indemnification basis and in no event less than on a solicitor and client basis) related to such distress as in like cases of distress for rent; and the Borrower hereby waives, on the exercise of such right and license, all rights to exemption from seizure and distress under any law whatsoever;
- (f) without notice to or the concurrence of any person, enter on the Lands and without limiting the generality of the foregoing, make such arrangements for completing the construction of, repairing or putting in order any buildings or Fixtures on the Lands, or for inspecting, taking care of, leasing, collecting the Rents of, and generally managing the Lands as the Lender may deem expedient

and no action taken by the Lender pursuant to this section 26(f) will make the Lender a mortgagee in possession;

- (g) appoint a receiver (which term as used herein includes a receiver manager) of the Lands, or any part thereof, in accordance with section 40;
- (h) take any and all legal steps and court proceedings to realize on the security created by this Mortgage, including applying to a court of competent jurisdiction for an order foreclosing the equity of redemption of the Borrower in the Lands or an order that the Lands be sold on terms approved by such court; and
- (i) take any and all other legal steps and court proceedings available to a mortgagee at law and in equity.

27. NON-MERGER

The taking of a judgment or judgments on any covenants contained in this Mortgage shall not operate as a merger of such covenants or affect the right of the Lender to interest at the Interest Rate; and any such judgment shall provide that interest thereon shall be computed at the Interest Rate and in the same manner as provided in this Mortgage until such judgment has been fully paid and satisfied.

28. OBLIGATIONS SURVIVE SALE

No sale or other dealing by the Borrower with the Lands or any part thereof shall in any way change the liability of the Borrower, the Covenantor or any other person liable for the payment of the monies secured by this Mortgage or in any way alter the rights of the Lender as against the Borrower, the Covenantor, or any other person liable for the payment of the monies secured by this Mortgage. Any and all payments made in respect of the Outstanding Principal Amount and interest and the monies or other proceeds realized from the sale of any securities held therefor, including this Mortgage, may be applied and reapplied notwithstanding any previous application on such part or parts of the Outstanding Principal Amount or interest as the Lender may see fit or may be held unappropriated in a separate collateral account for such time as the Lender may see fit.

29. ADVANCES

Notwithstanding the preparation and execution of the approval of mortgage, Loan Agreement or this Mortgage or the registration of this Mortgage or the advance of all or any part of the Principal Amount, the Lender is not bound to advance the Principal Amount or any unadvanced portion thereof, and all advances are to be made in such manner, at such times, and in such amounts up to the Principal Amount as the Lender in its sole discretion may determine, but nevertheless this Mortgage shall take effect upon the delivery for registration of this Mortgage and the expenses of the examination of the title and title insurance of this Mortgage and valuation shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, shall bear interest at the Interest Rate and form a charge on the Lands in priority to all other encumbrances arising subsequent to this Mortgage.

30. PARTIAL RELEASE

The Lender may at all times release any part or parts of the Lands or any other security or any surety for payment of all or any part of the monies secured by this Mortgage or may release the Borrower Covenantor or any other person from any covenant or other liability to pay the said monies or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Lands, or any other security or covenants in this Mortgage or elsewhere contained. Notwithstanding any such release the Lands, security and covenants remaining unreleased shall remain a charge for all the monies secured by this Mortgage.

31. ENCUMBRANCES AND COSTS

The Borrower shall pay and discharge, or cause to be paid and discharged, all encumbrances, liens or charges now or hereafter existing or to arise or to be claimed upon the Lands or Covenantor any part thereof, having or claiming priority over this Mortgage. If the Borrower fails to do so, the Lender may pay the amount required to discharge any such encumbrance, lien or charge, including any Taxes, utility charges or other rates on the Lands, mechanics' liens or any amounts payable to the Condominium Corporation.

In the event of the Lender paying the amount of any such encumbrance, lien or charge, either out of the monies advanced on the security of this Mortgage or otherwise, the Lender shall be subrogated to and entitled to all the rights, equities and securities of the person, company, corporation or government so paid off, and is hereby authorized to retain any discharge thereof, without registration, for so long as the Lender deems it proper to do so.

32. EXTENSIONS

The Lender may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities and guarantees from and give the same and any and all existing securities and guarantees up to, may abstain from taking securities or guarantees from or from perfecting securities or guarantees of, may accept compositions from and may otherwise deal with the Borrower and all other persons, securities and guarantees as the Lender may see fit without prejudicing the rights of the Lender under this Mortgage. No extension of time given by the Lender to the Borrower, or anyone claiming under the Borrower, or any other dealing with the owner of the equity of redemption of the Lands shall in any way affect or prejudice the rights of the Lender against the Borrower, the Covenantor or any other person liable for the payment of the monies secured by this Mortgage.

33. DISCHARGE

The Lender shall have a reasonable time after request by the Borrower and payment in full of all monies secured by this Mortgage within which to prepare, execute and deliver a discharge or, if requested by the Borrower and consented to by the Lender, an assignment of this Mortgage. Interest at the Interest Rate shall continue to run and accrue until actual payment in full has been received by the Lender. The Borrower will pay the Lender's usual administrative fee, if applicable, for preparing and signing a discharge or assignment and all other legal and other expenses, whether the discharge or assignment is prepared by the Lender, the Borrower or

any other person. The Borrower is responsible for registration of the discharge or assignment. If the Lender registers the discharge or assignment, the Borrower will reimburse the Lender for all registration fees. The indemnity contained in section 24 shall continue notwithstanding a discharge of this Mortgage.

34. OTHER SECURITY

This Mortgage is in addition to and not in substitution for any other security held by the Lender including, without limitation, any promissory note or notes for all or any part of the monies secured under this Mortgage, and the Lender may pursue its remedies thereunder or under this Mortgage concurrently or successively at its option and in such order as the Lender determines in its sole discretion. Any judgment or recovery under this Mortgage or under any other security held by the Lender for, among other things, the monies secured by this Mortgage shall not affect the right of the Lender to realize upon this or any other security. The Borrower shall comply with the terms and provisions of any other or collateral security held by the Lender in connection with this Mortgage. This Mortgage shall not operate so as to create any merger or discharge of any debt owing to the Lender or of any lien, bond, promissory note, bill of exchange or other security held by the Lender either before or after registration of this Mortgage from the Borrower, Covenantor or from any other person or persons and this Mortgage shall not in any way prejudicially affect any security held either before or after the registration of this Mortgage by the Lender for the monies hereby secured or any part thereof, or the liability of any endorser or any other person or persons upon any such lien, bond, bill of exchange, promissory note or other security or contract or any renewal or renewals thereof held by the Lender for or on account of the monies hereby secured or any part or parts thereof, nor shall the remedies of the Lender in respect thereof be prejudiced or delayed in any manner whatsoever by the taking of this Mortgage.

35. PLACE OF PAYMENT

All payments secured by this Mortgage shall be made in the lawful money of Canada prior to 4:00 p.m. at the Place of Payment or as otherwise agreed to by the Lender. Any payments made after 4:00 p.m. shall be credited as being paid on the next day that the Lender is open for business.

36. SEVERABILITY OF ANY INVALID PROVISIONS

If at any time any provision of this Mortgage in whole or in part is declared or held illegal, invalid or unenforceable under, or inconsistent with any applicable law or would by reason of any such law render the Lender unable to collect the amount of any loss sustained by it as a result of making the loan secured by this Mortgage which it would otherwise be able to collect, then such provision shall not apply and shall be construed so as not to apply to the extent that it is so illegal, invalid, unenforceable or inconsistent or would so render the Lender unable to collect the amount of any such loss, and this Mortgage will continue in full force and effect and be construed as if it had been executed without such illegal, invalid, unenforceable or inconsistent provision.

37. NO PREJUDICE FROM FAILURE TO ENFORCE RIGHTS

No failure to enforce at any time or from time to time any of the rights of the Lender under this Mortgage shall prejudice such rights or any other rights of the Lender against the Borrower, the Covenantor or any other person liable for payment of the monies secured by this Mortgage; no performance or payment by the Lender in respect of any breach or default under this Mortgage by the Borrower shall relieve the Borrower from any default under this Mortgage; and no waiver at any time or from time to time of any such rights of the Lender shall prejudice such rights in the event of any future default or breach.

38. CONDOMINIUM UNIT

If the Lands or any part thereof is or becomes one or more Units, the following provisions apply:

- (a) The Borrower shall at all times and from time to time observe and perform all duties and obligations imposed on the Borrower by the *Condominium Act* and any bylaws, rules and regulations, as amended from time to time, of the Condominium Corporation. Any breach of such duties and obligations shall constitute default under this Mortgage, entitling the Lender to demand repayment of all monies secured by this Mortgage with accrued interest thereon.
- (b) Without limiting the generality of the foregoing, the Borrower shall pay when due all maintenance payments and assessments and any other amounts levied by the Condominium Corporation in respect of the Lands. In the event of the Borrower failing to do so, the Lender, at its option, may make any and all such payments on behalf of the Borrower, and any monies so paid shall be payable immediately, shall be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands.
- (c) Subject to the *Condominium Act*, the Borrower hereby irrevocably assigns to the Lender all of the Borrower's rights under the *Condominium Act* and any bylaws, rules and regulations, as amended from time to time, of the Condominium Corporation.
- (d) Subject to the *Condominium Act*, the Borrower hereby irrevocably assigns to the Lender the Borrower's power to vote as the owner of any Unit charged hereby and as a member of the Condominium Corporation for the Borrower. The Borrower hereby acknowledges receipt of written notice that the Lender intends to exercise such power to vote. The Lender shall not by virtue of such assignment be under any obligation to vote or to protect the interests of the Borrower and shall not in any way be responsible for the result of any exercise of the power to vote or any failure to exercise the power to vote. Notwithstanding such assignment, the Borrower may, at any duly called meeting of the Condominium Corporation of which the Lender has received written notice, exercise its right to vote if the Lender is not, by its authorized representative, agent or proxy, present at such meeting, provided that the Borrower votes against any resolution of the members of the Condominium Corporation which could materially adversely affect the Lender's security under this Mortgage.

- (e) At the Lender's request, the Borrower shall deliver to the Lender such proxies or other instruments as may be considered requisite by the Lender to confer such power of voting upon the Lender.
- (f) The Borrower hereby irrevocably authorizes the Lender as the authorized agent of the Borrower at any time, and from time to time, to apply to the Condominium Corporation for copies of bylaws, financial statements, notices, minutes, information relating to levies and assessments and any other information or certificates available under the *Condominium Act* related to the Lands.
- (g) The Borrower shall ensure the Lender promptly receives all notices of the Condominium Corporation, including any notices of breaches.
- (h) The Borrower shall not give up possession of the Lands to a person on the basis of an agreement providing for the purchase of the Lands by the occupier or on the basis of Lease for a term of three (3) years or more if by so doing the Borrower is deemed under the *Condominium Act* to have assigned to the occupier all of the Borrower's rights, powers, duties and obligations under the *Condominium Act* and any bylaws, rules and regulations, as amended from time to time, of the Condominium Corporation.
- (i) No action taken by the Lender under this section 38 will make the Lender a mortgagee in possession.

39. RENEWAL, CONVERSION AND MODIFICATION

Notwithstanding the terms and conditions contained in this Mortgage, this Mortgage may be subject to collateral agreements between the Lender and the Borrower with respect to the frequency of payments both before and after default and the fluctuation of the Interest Rate. In addition, this Mortgage may be amended, renewed or extended as the Lender and the Borrower may agree from time to time. Such amendments, renewals or extensions may result in an increase in the Interest Rate beyond the rate per annum set out in this Mortgage. Such amendments, renewals or extensions may, but need not be, registered against the Lands and whether or not so registered, this Mortgage, as so modified, shall rank in priority to any and all interests registered against the Lands subsequent to the registration of this Mortgage as if and to the extent that such modification had been executed and registered, and all monies thereunder advanced, before the execution and registration of any subsequent interests. The provisions of this section 39 shall serve as notice to any subsequent mortgagee, encumbrancer or other person claiming an interest in the Lands or any part thereof that the terms and conditions contained in any such collateral agreements shall continue to have priority over any subsequent mortgagee, encumbrancer or other person claiming interest in the Lands or any part thereof.

Notwithstanding the foregoing, if a renewal agreement in respect of this Mortgage is sent by the Lender to the Borrower but the Borrower does not sign and return it to the Lender by the Balance Due Date, this Mortgage, at the Lender's option, will renew on the terms provided in such renewal agreement. Any changes to the Interest Rate, amortization period, Term, Amount of Each Periodic Payment, Payment Dates or any other terms shall not reduce or lessen the rights of the Lender against the Borrower, Covenantor or any other persons liable for the payment of monies secured by this Mortgage notwithstanding that such person may not have signed or be a

party to such agreement. The Borrower, Covenantor or any other persons liable for the payment of monies secured by this Mortgage agree to be bound by any such agreement, whether oral or in writing, to amend, renew or extend this Mortgage.

Nothing contained in this section 39 shall confer any right of renewal or extension upon the Borrower.

40. RECEIVERSHIP

When the Borrower is in default under this Mortgage, the Lender may, with or without entry into possession of the Lands, or any part thereof, by instrument in writing appoint, or by application to a court of competent jurisdiction obtain an order for the appointment of any person, as a receiver (which term as used herein includes a receiver manager) of the Lands, or any part thereof, and of the Rents and profits thereof, and with or without security, and may, when the appointment of the receiver is by instrument, by similar writing remove any receiver and appoint another receiver, and that in making any such appointment or removal, the Lender shall be deemed to be acting as the agent or attorney for the Borrower, but no such appointment shall be revocable by the Borrower. Upon the appointment of any such receiver the following provisions apply subject to the requirements of the *Conveyancing Act*:

- (a) The receiver shall have unlimited access to the Lands (which right of access shall not be revocable by the Borrower) and shall have full power and unlimited authority to:
 - (i) collect the Rents and profits from Leases;
 - (ii) rent any portion of the Lands on such terms and conditions as the receiver considers advisable and enter into and execute Leases, accept surrenders and terminate Leases;
 - (iii) complete the construction of any building or buildings or other erections or Fixtures on the Lands, purchase, repair and maintain any personal property including, without limitation, appliances and equipment, necessary or desirable to render the premises operable or rentable, and take possession of and use or permit others to use all or any part of the Borrower's materials, supplies, plans, tools, equipment (including appliances) and property of every kind and description;
 - (iv) manage, operate, repair, alter or extend the Lands or any part thereof and carry on the Borrower's business on the Lands;
 - (v) sell or grant options to purchase the Lands, or any part thereof, by public auction or private sale, on such terms as to credit or otherwise and with or without security as shall appear most advantageous to the receiver;
 - (vi) rescind or vary any contract or agreement of sale or lease of the Lands;

- (vii) borrow such sum or sums as will, in the opinion of the receiver, be required for the purposes of carrying on the receiver's duties and in so doing the receiver may issue receiver certificates;
- (viii) employ such assistants as the receiver may consider necessary for carrying out the receiver's duties; and
- (ix) perform such other acts and duties and incur any other expense that, in the receiver's opinion, will maintain, preserve or increase the value or income potential of the Lands or that is authorized by a court order appointing the receiver.

The Borrower undertakes to ratify and confirm whatever the receiver may do in respect of the Lands.

- (b) The Lender at its discretion may vest the receiver with all or any of the rights and powers of the Lender.
- (c) The Lender may fix the reasonable remuneration of the receiver and such remuneration together with all costs, charges and expenses of the receiver and receiver's borrowings, if any, required for the purposes of carrying on the receiver's duties hereunder shall be payable immediately on demand by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands.
- (d) The receiver shall be deemed the agent or attorney of the Borrower and not of the Lender and the Lender shall not be responsible for the acts and omissions of the receiver.
- (e) The appointment of any receiver by the Lender shall not result in or create any liability or obligation on the part of the Lender to the receiver or to the Borrower or to any other person including without limitation, for the receiver's remuneration, costs, charges and expenses and no appointment or removal of a receiver and no actions of a receiver shall render the Lender a mortgagee in possession of the Lands.
- (f) No receiver shall be liable to the Borrower to account for monies other than monies actually received by the receiver in respect of the Lands or any part thereof and out of such monies so received every receiver shall pay in the following order the following amounts:
 - (i) all the receiver's remuneration,
 - (ii) all costs, charges and expenses of every nature and kind incurred by the receiver, excluding the receiver's borrowings,
 - (iii) any sums borrowed by the receiver from the Lender and interest thereon as secured by receiver certificates,

- (iv) all interest, principal and other monies due hereunder to be paid in such order as the Lender in its sole discretion shall determine,
 - (v) any sum or sums borrowed by the receiver from any financial institution, corporation or other person other than the Lender and interest thereon as secured by receiver certificates, and
 - (vi) any surplus, subject to the rights of other creditors, to the Borrower.
- (g) Save as to claims for accounting under paragraph (f) of this section 40, the Borrower hereby releases and discharges any such receiver from every claim of every nature which may arise or be caused to the Borrower or any person claiming through or under this Mortgage by reason or as a result of anything done by the receiver unless such claim is the direct and proximate result of dishonesty or fraud.
- (h) The statutory declaration of an officer or agent of the Lender as to default under the provisions of this Mortgage and as to the due appointment of the receiver pursuant to this Mortgage shall be sufficient proof thereof for the purposes of any person dealing with a receiver and such dealing shall be deemed to be valid and effectual notwithstanding any contrary assertion by the Borrower.
- (i) The rights and powers conferred in this Mortgage in respect of the receiver are in addition to and not in substitution of any other rights and powers which the Lender may have.

41. EXPROPRIATION

In the event of any expropriation affecting the Lands or any part thereof, the Borrower agrees that the proceeds from the expropriation shall be paid to the Lender in priority to the claims of any other person. The Lender through its agents or employees may order a survey and/or property valuation of the Lands in order to ascertain the value of the expropriated lands and the remaining lands. Any and all reasonable costs, charges and expenses for such survey and/or property valuation shall be payable immediately by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate, and shall, with such interest, form a charge on the Lands in priority to all claims thereon arising subsequent to this Mortgage.

42. TRANSFER AND DISCLOSURE OF PERSONAL INFORMATION

The Borrower agrees that the Lender may securitize, assign, transfer or pledge this Mortgage without the consent of or notice to the Borrower. The Borrower acknowledges that the Lender may from time to time obtain credit support, insurance or liquidity in respect of the Mortgage or in respect of the securitization, assignment, transfer, or pledge of this Mortgage. The Borrower irrevocably agrees that the Lender may collect, use and disclose all personal information included in or relevant to this Mortgage (including credit and default information) with respect to the Borrower, the Covenantor or any other person who assumes or becomes responsible for payment of any amounts secured by this Mortgage in connection with such securitization, assignment, transfer, pledge, credit support, insurance, or liquidity or collection or enforcement proceedings in respect of this Mortgage.

43. MORTGAGE EXPENSES

The Borrower agrees to pay the reasonable costs, charges and expenses of and incidental to this Mortgage and all other documents or security required in connection with or collateral to this Mortgage and of anything done in connection with the enforcement of the security granted by this Mortgage or the procuring of the payment of any monies secured by this Mortgage including, without limitation:

- (a) processing and administration fees (if any);
- (b) legal costs and disbursements (on a full indemnification basis and in no event less than on a solicitor and client basis);
- (c) other costs and expenses relating to inspecting the Lands, appraising the value of the Lands, examining title, preparing, executing, delivering and/or registering any document, providing legal advice and opinions; or
- (d) other costs and expenses relating generally to any steps and proceedings reasonably taken by the Lender in order to preserve or protect the Lands, defend the validity or priority of this Mortgage or realize on the security created by this Mortgage.

The Borrower further agrees that any amounts so incurred or charged by the Lender shall be payable immediately on demand by the Borrower, be added to the monies secured by this Mortgage, bear interest at the Interest Rate and form a charge on the Lands.

44. ASSIGNMENT OF RENTS AND LEASES

The Borrower hereby assigns to the Lender all right, title, and interest of the Borrower in the Rent and Leases to have and to hold absolutely until all monies secured by this Mortgage and all obligations of the Borrower in this Mortgage have been fully paid and satisfied.

The Borrower hereby grants to the Lender full power and authority to enter upon the Lands to collect the Rents, to demand, collect, sue for, distrain for, recover, receive and give receipts for the Rents, to enforce payment of the Rents and performance of the obligations of any guarantees of payment and covenants to pay, and to exercise all rights in respect of any or all Leases in the Lender's own name or in the name of and as agent for the Borrower, as the Lender may elect, and hereby grants to the Lender irrevocable authority to join the Borrower in any such proceedings or actions.

Notwithstanding that this is a present and absolute assignment, (subject to redemption on repayment of all monies secured by this Mortgage), the Borrower, as agent for the Lender, shall be entitled to collect and retain the Rents as and when they become due and payable according to the terms of the Lease and to deal with all Leases until the Lender gives notice to tenants directing that they pay the Rents to the Lender.

The Borrower covenants that it now has good and sufficient power, authority and right to assign the Rents and Leases and other benefits to the Lender as herein provided and shall not further assign, pledge or otherwise encumber the Rents or Leases, accept any prepayment of the

Rents, nor do or omit to do any act having the effect of waiving, releasing, reducing or abating any rights or remedies of the Borrower or any obligations of any other party in connection with the Leases.

Nothing herein contained or any action taken by the Lender as provided will make the Lender a mortgagee in possession, or will have the effect of making the Lender responsible for the collection of the Rents or for the observance or performance or enforcement thereof or of any of the provisions of the Leases either by the Borrower or by any other person, liable to account for any monies except such monies as it actually receives pursuant to this assignment of Rents less proper collection charges, inspection fees, costs (including, without limitation, legal fees and disbursements on full an indemnification basis and in no event less than on a solicitor and client basis) and other expenses expended by the Lender and such monies when so received shall, at the discretion of the Lender, be applied on account of the monies secured by this Mortgage.

The giving of this assignment of Rents and Leases is by way of additional and collateral security for all monies secured by this Mortgage and not in substitution for any other security and will not in any way diminish, novate or otherwise affect any other security and such other security will not diminish, novate or otherwise affect this assignment of Rents and Leases. Any right or remedy under this assignment of Rents and Leases may be taken either independently or in conjunction with any other rights or remedies of the Lender under this Mortgage.

The Borrower shall execute and deliver such further assurances, assignments, notices or other documents and do all such other things as the Lender may reasonably require from time to time to perfect this assignment of Rents and Leases.

45. NO DEDUCTIONS

The Borrower agrees that notwithstanding anything to the contrary contained in this Mortgage, all payments due from or made by the Borrower shall be made without set-off or counterclaim and, subject to section 6, without any deductions or withholdings, whatsoever.

46. INTERPRETATION

The expressions "Borrower", "Lender" and "Covenantor" wherever used in this Mortgage shall include the heirs, executors, personal representatives, administrators, successors and assigns of the Borrower, the Lender and the Covenantor, respectively, and wherever the singular or masculine is used throughout this Mortgage the same shall be construed as meaning the plural or the feminine or body corporate or politic where the context so require. All covenants, liabilities, and obligations of the Borrower and Covenantor under this Mortgage shall be equally binding upon his, hers, its or their heirs, executors, personal administrators, successors and assigns, respectively, and that all such covenants, liabilities, advantages, privileges, immunities, powers and things hereby secured to the Lender shall be equally secured to and exercisable by its successors and assigns. If the Borrower or Covenantor is comprised of more than one person the covenants on the part of the Borrower and the Covenantor, respectively, herein contained shall be joint and several covenants.

47. PARAGRAPH HEADINGS

The paragraph headings and Table of Contents in this set of Additional Terms and Conditions are inserted for convenience of reference only and are deemed not to form part of this Mortgage and are not to be considered in the construction or interpretation of this Mortgage.

48. APPLICABLE LAW

This Mortgage and the rights and obligations under this Mortgage shall be governed and construed according to the laws of the Province of Newfoundland and Labrador.

49. CONSOLIDATION

The Lender hereby retains and preserves its common law right of consolidation and may, in its sole discretion, invoke the right to consolidate at any applicable time. For the purposes of this Mortgage and any other mortgage now or hereafter granted by the Borrower to the Lender, the Borrower acknowledges and agrees that any statutory provision abolishing, or purporting to abolish the right of consolidation, is expressly excluded.

50. NATIONAL HOUSING ACT

If this Mortgage is a CMHC-insured Mortgage, this Mortgage is made pursuant to the *National Housing Act*, R.S.C. 1985, c.N-11, as amended or replaced from time to time.

51. COVENANTOR

In consideration of the Lender making advances to the Borrower in whole or in part of the monies secured by this Mortgage and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Covenantor does hereby covenant, promise and agree as principal debtor and not as surety to and with the Lender that the Covenantor shall pay, or cause to be paid, to the Lender the Principal Amount and other monies secured by this Mortgage, together with interest thereon, and shall observe and perform all of the covenants, provisos, conditions, agreements and stipulations in this Mortgage on the part of the Borrower. If there is more than one Covenantor, the covenants herein contained shall be joint and several.

The Lender shall not be bound to exhaust its recourse against the Borrower or any other party or other security it may hold before being entitled to payment from the Covenantor of the monies secured by this Mortgage.

The Covenantor further covenants and agrees that without giving notice to or obtaining the consent or concurrence of the Covenantor, the Lender may:

- (a) grant any time, indulgences, waivers or extensions of time for payment or performance of any of the obligations under this Mortgage;
- (b) grant any renewals or extensions of this Mortgage, with or without a change in the Interest Rate or in any other terms or conditions of this Mortgage and whether by express agreement of the Borrower or otherwise (including without limitation by way of an automatic renewal or extension);

- (c) change the rate or rates of interest provided in this Mortgage, either during the initial term thereof or in any subsequent extension or renewal term, whether by way of increase, decrease, change in the reference rate by which such rate is calculated or determined, change from a fixed rate to a variable rate or from a variable rate to a fixed rate, or otherwise;
- (d) shorten or lengthen the amortization period of this Mortgage;
- (e) otherwise amend, supplement, modify, vary, or otherwise change any of the terms or conditions of this Mortgage in any manner whatever;
- (f) release or discharge from this Mortgage or charge constituted by this Mortgage the whole or any part of the Lands;
- (g) advance Additional Principal Amounts to the Borrower pursuant to any provision of this Mortgage that permits the Borrower to borrow such Additional Principal Amounts from the Lender;
- (h) deal with the Borrower or any other person liable for payment of the monies hereby secured or the Lands or this Mortgage or any other security as the Lender sees fit including, without limitation, realizing on, releasing, accepting substitutions for or replacing any of the security for this Mortgage;
- (i) release or discharge one or more other co-covenantors or guarantors or Borrowers in respect of this Mortgage; or
- (j) release any subsequent legal or beneficial owner of the Lands from any liability for the obligations under this Mortgage or refrain from requiring any such owner to assume any such liability,

and none of the foregoing actions shall in any way lessen, limit or otherwise affect the obligations or liability of the Covenantor hereunder, regardless of whether any such action has the effect of amending or varying this Mortgage or increasing, expanding or otherwise altering the nature, effect, term, extent or scope of the obligations thereunder. The liability of the Covenantor hereunder shall extend to and include the obligations of the Borrower under this Mortgage as so amended, renewed, extended or varied and this Mortgage as so increased, expanded or altered without further action on the part of the Lender or the consent or concurrence of the Covenantor; and for greater certainty and without limiting the foregoing, if any rate of interest provided in this Mortgage is increased or otherwise altered, the liability of the Covenantor hereunder shall be extended to and include the obligation of the Borrower to pay interest at such increased or altered rate.

52. ACKNOWLEDGEMENT

The Borrower and Covenantor hereby acknowledge receipt of a copy of this set of Additional Terms and Conditions and, if applicable, any additions, amendments or deletions to this set of Additional Terms and Conditions as provided in this Mortgage before executing or at the time of executing this Mortgage.