

THIS MORTGAGE made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

IN PURSUANCE OF THE ENACTMENTS RESPECTING SHORT FORMS OF INDENTURES

BETWEEN: \_\_\_\_\_,

whose address is \_\_\_\_\_

\_\_\_\_\_  
(herein called the "Borrower")

AND:

**EQO RWGTUJ CTG VTWUV EQO PCP[ QHECPCFC**, whose address is

eLq O ctcyj qp O qtv i ci g Eqtr 0

Uwkyg 729 / 40 University Avenue,

Toronto, ON M5J 1T1

(herein called the "Lender")

WITNESSES THAT the Borrower at the time of the execution of this Mortgage is seized of an estate in respect of the Property (as described in Schedule A attached hereto and defined in Schedule B attached hereto) and has applied to borrow money from the Lender upon the mortgage and charge of the property as security for the repayment of the Indebtedness (as defined in Schedule B attached hereto);

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) of lawful Canadian dollars now paid by the Lender to the Borrower and other good and valuable consideration (the receipt of which is hereby acknowledged), the Borrower, as beneficial owner, hereby conveys, mortgages and charges title to the Property to and in favour of the Lender as security for the repayment of the Indebtedness and the performance of all obligations of the Borrower set out in this Mortgage and in the mortgage commitment letter and any schedule attached hereto.

To have and to hold the Property unto the Lender forever.

Subject to the terms of this Mortgage, this Mortgage shall be void upon the payment to the Lender of the principal amount of \$ \_\_\_\_\_ in lawful Canadian dollars (the "**principal amount**"), with interest at the rate and as calculated in this Mortgage from the interest adjustment date (as well after as before maturity and both before and after Default and judgment) on the Indebtedness hereby secured until the whole of the

Indebtedness is paid. The Borrower agrees that this Mortgage will not cease to operate or be void by reason of the principal amount becoming or being zero or otherwise extinguished at any time, and that no payment received by the Lender will redeem this Mortgage unless the Borrower specifically notifies the Lender that such payment is in repayment of the full Indebtedness and requests in writing a discharge of this Mortgage upon the Indebtedness being repaid and satisfied in full.

The Indebtedness shall be paid as follows:

**Interest adjustment date:** \_\_\_\_\_, 20 \_\_\_\_

**Maturity Date:** \_\_\_\_\_, 20 \_\_\_\_

**Term:** The period commencing on the interest adjustment date and ending on the maturity date.

**Interest Rate:** The interest rate payable under this Mortgage is an adjustable rate, adjusted as set out below, and equal to the Lender's Prime Rate (the "Prime Rate") as it may be set from time to time, plus or minus, if any, the specific percentage points per annum set out in this Mortgage or any amendment hereto. The resulting rate is defined as the "total interest rate". Interest at such adjustable rate is calculated semi-annually not in advance.

The total interest rate will be set at the start of the Mortgage. Thereafter the total interest rate will be automatically adjusted, on each adjustment date, with changes in the Prime Rate and without notice to the Borrower. Lack of such notice will not reduce or affect the obligation of the Borrower to pay interest in accordance with the terms of this Mortgage.

The principal and interest payment will be re-calculated on the total interest rate and remaining amortization on each adjustment date. The total interest rate and payment amount will be adjusted and will vary in accordance with this paragraph regardless of whether the Borrower receives notice of such adjustment.

The adjustment date is a date scheduled after every change in the Prime Rate when the Lender will adjust all the adjustable rate mortgages under administration. The total interest rate will be adjusted on each adjustment date during the term of this Mortgage and will remain in effect until the next adjustment date. At the close of business on the adjustment date, the rate will be reset to the Prime Rate then in effect, plus or minus, if any, the specific percentage points per annum set out in this Mortgage or any amendment thereto.

The Prime Rate is, on any day, the annual rate of interest, compounded semi-annually not in advance, that the Lender establishes from time to time, at its principal office in Toronto, as its prime rate for residential mortgage loans and as its reference rate of interest used to determine the interest rates it will charge on such day for loans in Canadian dollars made to its customers in Canada and which it refers to as its "Prime Rate". The Lender's Prime Rate in effect at any time is available upon inquiry to the Lender. Any certificate in writing the Lender issues setting out its Prime Rate and interest rate applicable to this Mortgage at any time shall be deemed to be conclusive evidence as to the rate at such time.

In the event of Default, the Lender may at any time during Default and at the Lender's sole discretion, exercise the Borrower's conversion option as set out below and/or fix, temporarily or permanently, the then current adjustable rate, without the consent of the Borrower. The Borrower will not be entitled to a rebate of any interest or cost of borrowing resulting from the Lender's actions regardless of whether the Borrower later cures the Default.

The interest rate is the Lender's Prime Rate \_\_\_\_\_ (%) per cent per annum, calculated semi-annually not in advance.

The Lender's Prime Rate as of the date of the Mortgage is \_\_\_\_\_ (%) per cent per annum.

The total interest rate as of the date of the Mortgage is \_\_\_\_\_ (%) per cent per annum, calculated semi-annually not in advance.

**Payment Amounts:** The principal amount together with interest thereon at the total interest, calculated from the interest adjustment date, will become due and be paid by regular payments, the first such payment being in the amount of \$\_\_\_\_\_ (which includes principal and interest), as adjusted in accordance with above, commencing with the first regular payment and thereafter with the frequency of payments as indicated below up to and including the maturity date, and the outstanding principal amount then owing under this Mortgage will become due and be paid on the maturity date. The Borrower will not be entitled, except as may be otherwise provided in this Mortgage, without the Lender's prior written consent, to change the amount or frequency of the payments provided for in this Mortgage.

**Payment Frequency:** The frequency of regular payments shall be monthly, with each payment being on the \_\_\_\_\_ day of the month.

**Interest to interest adjustment date:** Interest on the amounts from time to time advanced, calculated from the respective dates of such advances to and including the day preceding the interest adjustment date will become due and be paid on the interest adjustment date in accordance with and subject to the provisions of Schedule B attached hereto.

The privileges of this Mortgage are available to the Borrower only when not in Default.

### **PREPAYMENT PRIVILEGES**

The following prepayment privileges may be used in the same year.

The exercising of either privilege will not affect any of the Borrower's obligations under this Mortgage including the continuing regular loan payments as to Indebtedness or due date.

Privileges are not cumulative and may not be carried over from one year to the next.

#### (a) PARTIAL PREPAYMENT

The Borrower, when not in Default, may prepay partial amounts of principal, without payment of compensation to the Lender, on any payment date. Such partial payments must each be a minimum amount of \$ 100.00, and total no more than 15% of the original principal amount of this Mortgage during each year. This privilege is only available if this Mortgage is continuing in force and is not applicable in part to any prepayment in full of this Mortgage. Any unused partial prepayment privilege will not reduce the Indebtedness payable on any prepayment in full of this Mortgage. This privilege may not be used in the thirty-one (31) days prior to a prepayment in full of this Mortgage.

#### (b) PAYMENT INCREASE

The Borrower, when not in Default, shall have the privilege of increasing the then regular loan payment on account of principal and interest, in an amount not to exceed 15% thereof, or reducing the aforesaid increased payment by an amount up to but not exceeding 15%, during any year. It is understood that the principal and interest portion of the regular loan payment may never be less than the original principal and interest amount.

### CONVERSION

The Borrower, when not in Default, and any time after having made regular payments for one month or more, may convert this adjustable rate mortgage to any closed, fixed rate mortgage that is available for a similar mortgage offered by the Lender at the time the request to convert is received. This conversion option is subject to the following restrictions:

This adjustable rate mortgage is for a term of FIVE (5) YEARS:

The term of the fixed rate mortgage chosen must be equal to or greater than the remaining term of this adjustable rate mortgage at the time this conversion option is exercised.

The fixed rate will be the rate the Lender then quotes for the term so chosen by the Borrower under this option.

The Lender may require all Borrowers and guarantors to sign a mortgage conversion or amending agreement, which will contain all the terms and conditions of the mortgage option selected. Or, at the Lender's sole option, a written request to convert, signed by all Borrowers and Guarantors will be accepted, and be binding on all signing parties, in lieu thereof.

The remaining amortization period at the date of conversion will remain unchanged from this adjustable rate mortgage and will be used to calculate the loan payment amount on the fixed rate mortgage. The new interest rate will begin on the first or second scheduled payment date following conversion, whichever the Lender decides, in its sole discretion.

The Lender will not charge an administration fee for converting this Mortgage. However, the Borrower must pay to the Lender any applicable administration and processing fees and any

interest that results from a change in the frequency of the regular loan payments. The Borrower must also pay all legal expenses related to the conversion documents and their registration, if applicable. If the required fees and expenses are not paid, the Lender may declare the Borrower in default on the Mortgage, or add such fees and expenses to the Mortgage money or both.

Once this conversion option has been exercised and this Mortgage has been converted, all the features and benefits of this Mortgage will be rescinded and the features and benefits of the new Mortgage will take effect whether or not a conversion or amending agreement is signed by, or delivered to, the Borrower.

The exercising of this conversion option will not affect any of the Borrower's obligations under this Mortgage.

### **ASSUMPTION**

The Borrower, when not in Default, may sell the Property charged hereunder without paying off the Indebtedness secured by this Mortgage if the purchaser of the Property first obtains Marathon Mortgage Corp.'s (MMC's) written approval for the assumption of the Mortgage. The Borrower and the purchaser must provide sufficient information as required by the Lender to enable it to make a decision to grant approval. The purchaser will be required to sign an assumption agreement and documents and pay all Costs that may be associated with the granting of the approval to assume the Mortgage.

If this Mortgage is assumed, the purchaser assuming this Mortgage will be limited to the privileges outlined herein as if the purchaser had exercised such privileges prior to the completion of the sale.

### **PORTABILITY**

The Borrower may, when not in Default, and upon a bona fide arm's length sale of the Property charged hereunder and the purchase of another property, apply for approval to transfer this Mortgage as a charge of the same priority and of the same amount to the new property. The closing date of the two sales must be the same. In most cases, an arm's length sale is one where the buyer and seller are unrelated and have no personal or business relationship with each other.

The existing Borrower and the new property must both qualify under the Lender's underwriting policies, criteria, procedures and documentation requirements and those of any insurer, if applicable, in effect at the time of application. The Borrower will be required to pay the port application fee, appraisal fee and insurance premiums, if any, and all other fees and prepayment compensation that may be associated with the granting of the approval to port.

### **MATURITY**

The balance of the Indebtedness will become due and payable, in full, on the balance due date (maturity) of this Mortgage.

In the event the Lender agrees to renew or extend the term of this Mortgage, such renewal or extension may, at the Lender's sole discretion, be subject to a credit review and any renewal or extension fee in effect at such time. If the Lender so chooses, the Borrower will be required to provide any and all documentation required by the Lender for the Lender's credit review. Failure of the Borrower to provide such documentation or pay such fees may cause the Lender to revoke any offer of renewal or extension so made.

In the absence of receipt of either full payout of Indebtedness or a signed renewal offer from the Borrower, the Lender, at its sole discretion and in accordance with its policies at the time of maturity, may renew this Mortgage for a term with the length and at the rate of interest as it sets out for an auto renewal in its offer of renewal.

Upon completion of a renewal, all the features and benefits of this Mortgage will be rescinded and the features and benefits of the new mortgage will take effect whether or not a renewal or amending agreement is signed by, or delivered to, the Borrower.

### **PREAUTHORIZED CHEQUING**

The Borrower agrees to execute any documents necessary to permit the Lender to deduct payments from the Borrower's bank account and to ensure that such account always has clear and sufficient funds to satisfy the payment obligations of the Borrower under this Mortgage. It is hereby agreed between the Lender and the Borrower that the covenant herein forms a material consideration in the granting of the Mortgage and failure of the Borrower to execute any such documentation enabling the Lender to receive payments through a preauthorized payment method acceptable to the Lender, and on an account with a financial institution in Canada will, at the option of the Lender, result in the full amount of Indebtedness outstanding under this Mortgage becoming due and payable.

The Borrower shall pay a fee for every dishonoured preauthorized payment, in accordance with the fee schedule established by the Lender from time to time. Unless separate payment for the fee is received with the replacement payment, the fee will form part of the Indebtedness and will thereafter be charged interest at the same rate as the Mortgage until paid.

### **PREPAYMENT IN FULL**

The Borrower may prepay this Mortgage in full at any time upon a compensation payment to the Lender of three (3) months interest calculated by the Lender on the remaining balance and at the interest rate set out in the Mortgage form or last renewal, conversion or amendment thereto.

In addition, if the Borrower pays off the Mortgage before the Maturity Date, a reinvestment fee will apply (unless the Borrower's property is sold arm's length, at which point the reinvestment fee is waived). If the Borrower pays off the Mortgage within the first year of the term, a reinvestment fee of \$500 will be charged. In the second year, the reinvestment fee is \$400; and in the third year, the reinvestment fee is \$300.00.

The prepayment compensation amount may be estimated up to thirty (30) days in advance of the discharge date. At a later date, to be determined by the Lender at its sole discretion, the Lender will fix and guarantee the compensation amount. Thereafter, the Lender will not be required to re-calculate the compensation amount should the Prime Rate increase or decrease.

The Borrower will not be entitled to require a discharge of this Mortgage without payment of the compensation amount.

The Borrower will not be entitled to a rebate of any of the costs of borrowing upon such prepayment. The costs of borrowing include the fees and costs related to the Mortgage application and any other fees charged as set out in the Lender's fee schedule.

The Borrower agrees that the amounts calculated by the Lender pursuant to the above calculations will, in the absence of obvious error, be conclusive.

The prepayment compensation amount is a charge in addition to accrued interest and any applicable compound interest and fees.

## **FEES**

The Borrower shall pay a fee for every dishonoured payment whether for a regular loan payment, a replacement thereof, or any other remittance of payment or fee under this Mortgage.

The Borrower acknowledges that the Lender may charge reasonable fees for all administrative services including, but not limited to, those outlined in the Fee Table and the Borrower agrees to pay all such charges. Fees not paid as required may, at the Lender's sole discretion, lead to the withholding the service or approval for which the fee remains owing or, may be added to the Indebtedness secured hereunder and accrue interest at the rate of the Mortgage until paid. The Lender will not be liable for the effect of any such withholding of services or approval.

The following Fee Table outlines the fee amounts that are in effect at the date of this Mortgage. The Fee Table represents the most common fees that may be charged from time to time. The Lender will advise the Borrower of any applicable fees when a particular service is requested by the Borrower.

All fee amounts are subject to change at any time and without notice. The fees in effect at any time are available upon inquiry to the Lender.

There are fees chargeable by the Lender which the Borrower is liable to pay, including but not limited to, those outlined in the Fee Table and those set out in the mortgage documents. The listing of any particular fee does not imply that the Lender is liable to provide the service listed.

The Lender's fees shall be the amounts established, disclosed and generally applied by the Lender from time to time. The current fees in effect at any time may be ascertained upon inquiry to the Lender.

All such fees are intended to compensate the Lender for the Lender's administrative costs and shall not be deemed a penalty. Any and all fees, if not paid, shall be added to the Indebtedness secured hereunder and shall bear interest at the rate provided in this Mortgage until paid. The Lender shall have the same rights with respect to the collection of the fees as it does with respect to the collection of the Indebtedness secured hereunder.

**FEE TABLE**

Dishonoured Payments	\$100.00
Administration Fee - Discharges (Full or Partial)	\$300.00
Reprint of Discharge Statements	\$ 50.00
Assumption	\$200.00
Assignment/Transfers – For Newfoundland	\$ 50.00
Assignment/Transfers – For Nova Scotia	\$ 25.00
Assignment/Transfers – For P.E.I	\$ 25.00
Administration (for Default)	\$250.00
Reinvestment Fee – if mortgage is paid out in First Year	\$500.00
Reinvestment Fee – if mortgage is paid out in Second Year	\$400.00
Reinvestment Fee – if mortgage is paid out in Third Year	\$300.00

IN WITNESS WHEREOF the Borrower has signed this Mortgage on the date noted above.

SIGNED, SEALED AND DELIVERED

In the presence of

\_\_\_\_\_  
Witness

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## SCHEDULE B – MORTGAGE TERMS

### 1. Meanings and Definitions

#### 1.1 **Definitions.** In these Mortgage Terms:

“Agreement” means any letter of commitment, loan approval, document, now or in the future, that gives rise or relates to Indebtedness or Obligations, and any renewals, extensions, amendments, replacements, restatements and substitutions of such document.

“Applicable Laws” means all applicable federal, provincial and municipal laws, statutes, regulations, rules, by-laws, policies and guidelines, orders, permits, licenses, authorizations, approvals and all applicable common laws or equitable principles whether now or hereafter in force and effect.

“Borrower’s Mailing Address” means the postal address of the Borrower set out in the Mortgage Form or the most recent postal address provided in a written notice given by the Borrower to the Lender under these Mortgage Terms.

“Borrower” means the Person or Persons named in the Mortgage Form as mortgagor.

“Business Day” means any day (other than a Saturday or Sunday) on which commercial banks are not authorized or required to close in Toronto, Ontario, Canada.

“CMHC” means Canada Mortgage and Housing Corporation or any successor.

“Constituting Documents” has the meaning given to such term in subsection 13.2.

“Costs” means all costs of the Lender (and interest on all such costs from the date incurred until paid to the Lender) for:

- (i) preparing, executing and registering any Agreement or this Mortgage and any such costs in extending credit to the Borrower or qualifying the Borrower for such purpose;
- (ii) enforcing the Mortgage or any Agreement;
- (iii) any protective disbursements or just allowances paid by the Lender that may be added to the Indebtedness or are otherwise secured by this Mortgage;
- (iv) any Receiver or other Person appointed with similar powers (under this Mortgage or otherwise) and such Person’s costs in regard to the Property;
- (v) obtaining assessments of the condition of the Property, such as environmental assessments;
- (vi) complying with any requirements of Applicable Laws in regard to the Property;
- (vii) performing the obligations of the Borrower under the Mortgage or any Agreement, such as the costs incurred in removing any lien from title to the Property that is in breach of this Mortgage (whether or not having priority over the Mortgage) or paying Taxes; and

- (viii) in the case of all of the above items, all legal fees and disbursements of the Lender, or a Receiver, on a full solicitor-client or substantial (i.e. full) indemnity basis.

“Court” means a court or judge having jurisdiction under Applicable Laws.

“Default” means any default occurring under this Mortgage.

"Environmental Laws" means all applicable laws, rules, by-laws and regulations, and all applicable directives, orders and codes of any government intended to regulate and/or protect the environment and living things relating to Hazardous Substances.

"Guarantor" means each person who signs this Mortgage as a guarantor or as a surety.

"Hazardous Substance" means any hazardous or dangerous waste, pollutant, contaminant or other substance whether solid liquid or gaseous, which based on current Environment Laws and reasonable authoritative information, would cause degradation to the natural environment or to the health and welfare of any living things, including without limitation, substances so designated under Environmental Laws, asbestos, urea formaldehyde, poly-chlorinated biphenyl and radioactive and toxic substances.

“Indebtedness” means:

- (i) all money borrowed by the Borrower from the Lender;
- (ii) all interest and Costs owing by the Borrower to the Lender;
- (iii) all contingent obligations of the Borrower to the Lender where the Borrower is providing financial assistance to another Person; and
- (iv) any other debts, liabilities and extensions of credit, present or future, direct or indirect, absolute or contingent, matured or not, now or at any time due or owing by the Borrower to the Lender or remaining unpaid by the Borrower to the Lender, whether reduced from time to time and afterwards increased or entirely extinguished and afterwards incurred again (such as a revolving line of credit), whether arising by way of an Agreement or otherwise, whether arising from dealings between the Lender and the Borrower, or from other dealings or proceedings by which the Lender may be or become in any manner a creditor of the Borrower, wherever incurred and whether incurred by the Borrower alone or with another or others.

“Lender’s Mailing Address” means the postal address shown on the Mortgage Form or the most recent postal address provided in a written notice given by the Lender to the Borrower under these Mortgage Terms.

“Lender” means the Person or Persons named in the Mortgage Form as the lender or the mortgagee and includes any Person to whom the Lender transfers this Mortgage.

“Mortgage” means, together, the Mortgage Form and these Mortgage Terms.

“Mortgage Form” means the form, stipulated by Applicable Laws, to which these Mortgage Terms are attached or incorporated by reference.

“Mortgage Terms” means the terms and conditions contained in this document.

“National Housing Act” means the National Housing Act, R. S. C. 1985, c. N.-11, as amended and replaced from time to time.

“Obligations” means all obligations of the Borrower to the Lender at any time, other than Indebtedness.

“Person” means a natural person or any other legal entity, such as a corporation.

“Place of Payment” means the Lender’s Mailing Address or any other place specified in a written notice given by the Lender to the Borrower.

“Property” means the lands described in the Mortgage Form, together with all buildings, structures, and improvements of any nature or kind now or hereafter located on such lands, and all fixtures, rents and all other appurtenances thereto.

“Spouse” means the spouse of the Borrower or another person having any equivalent spousal or common law interest in the Property under Applicable Laws.

“Receiver” means a receiver, a manager, a receiver and manager, or any other similar Person appointed in regard to the Property, or any part of the Property, and the rents and profits of and from such Property, which receiver may be an officer or officers or employee or employees of the Lender, though need not be.

“Taxes” means all taxes, rates and assessments of every kind that are payable by any Person in connection with this Mortgage, the Property or its use and occupation, or arising out of any transaction between the Borrower and the Lender, but not including the Lender’s income taxes.

## 2. Continuing Security

- 2.1 **Charging Provision.** The Borrower hereby grants, conveys, mortgages, pledges, assigns and charges the Property to the Lender all of its right title, estate and interest as security for the payment of Indebtedness to the Lender and performance of the Obligations of the Borrower.
- 2.2 **Limitation.** This Mortgage will secure at any one time only that portion of the principal component of the Indebtedness at such time up to the registered amount shown on the Mortgage Form (which may be identified on such form as the principal amount), together with interest or compound interest (in the manner specified in this Mortgage) on such portion of the Indebtedness and Costs.
- 2.3 **Lender Not Required to Advance Money.** The Lender is not obliged to advance to the Borrower any money under this Mortgage, whether or not this Mortgage is registered, and nothing in this Mortgage obliges the Lender to make such advances of money to the Borrower.
- 2.4 **No Discharge.** By entering into this Mortgage, the Borrower and Lender do not intend that any Agreement is to be extinguished, superseded or discharged. If a judgment is obtained from a Court concerning some or all of the Indebtedness or Obligations, the Borrower and Lender do not intend that the remaining Indebtedness or Obligations will be extinguished, superseded or discharged or that the Lender will be prevented from exercising any of its remaining rights under any Agreement, this Mortgage or Applicable Laws.
- 2.5 **No Prejudice to Other Security.** The Lender may take guarantees or securities from other Persons, or grant time, renewals, extensions, indulgences, releases and discharges to the Borrower and other Persons, relating to the Indebtedness or the Obligations secured by this Mortgage, without prejudicing the rights and remedies of the Lender under this Mortgage.

- 2.6 **Possession of Property.** The Borrower may continue to remain in possession of the Property as long as the Borrower is not in Default.
- 2.7 **Discharge of Mortgage.** When the Indebtedness and all Obligations are satisfied in full by the Borrower, and the Borrower has no further liability under any Agreement, and the Lender has no obligation to make any further advances or extend credit to the Borrower under any Agreement, this Mortgage will have no further effect and the Borrower will be entitled to obtain a discharge of this Mortgage. Where the Borrower is entitled to such discharge of this Mortgage, the discharge will be prepared and signed by the Lender and is to be registered by the Borrower, at the Borrower's expense, in the appropriate registry of deeds, land titles or land registration office to cause cancellation or release of this Mortgage against the Property.

### 3. Interest

- 3.1 **What Interest Applies to.** Interest is chargeable on and forms part of the Indebtedness and is payable by the Borrower at the rate or rates and with the frequency, and otherwise, in accordance with the terms of an Agreement and this Mortgage.
- 3.2 **Calculation of Interest.** Any interest that is chargeable on and forms part of the Indebtedness is not payable in advance, but is chargeable and payable at the rate or rates and with the frequency and otherwise as specified by the terms of an Agreement and this Mortgage, both before and after any Default, any maturity of the Indebtedness to which the interest relates and any judgment obtained with respect to the Indebtedness to which the interest relates, until all such interest and the Indebtedness to which the interest relates has been paid in full. Interest unpaid when due in accordance with the terms of an Agreement and this Mortgage will be added to the Indebtedness and bear compound interest at the rate or rates and with the frequency specified by the terms of an Agreement and this Mortgage. If the interest rate for any amount payable under this Mortgage is not specified by the terms of the Agreements or otherwise under this Mortgage, then such interest will be payable at the rate and with the frequency and otherwise in accordance with Applicable Laws.
- 3.3 **Maximum Interest.** If the interest rate or rates under the terms of an Agreement and this Mortgage exceed the maximum rate permitted by Applicable Laws, then, notwithstanding the terms of the Agreements and this Mortgage, the interest rate will be deemed to be such maximum rate.
- 3.4 **Rate of interest on Mortgage Form.** If a rate of interest is set out on the Mortgage Form, the rate or rates of interest on the Indebtedness will nonetheless be the rate or rates specified by the terms of an Agreement and this Mortgage, but if none are specified for any portion of the Indebtedness, then the applicable rate of interest for such Indebtedness will be that which is set out on the Mortgage Form.
- 3.5 **Interest on Costs.** If Costs arise, the Borrower will pay interest on such Costs (and interest on overdue interest) from the time the Costs arise until the Costs are paid as follows:
- a. if such Costs arise under an Agreement, then the interest will be paid on such Costs at the rate and with the frequency and otherwise in accordance with such Agreement; and
  - b. if such Costs arise solely under this Mortgage, without regard to a particular Agreement, then the Lender will attribute such Costs to any Agreement that the Lender chooses and interest on such Costs will be payable at the rate, with the frequency and otherwise in accordance with such Agreement.

### 4. Payment

- 4.1 **Payment on Demand.** The Borrower will pay to the Lender the outstanding amount of the Indebtedness in accordance with the terms of an Agreement and this Mortgage.
- 4.2 **No Prepayments.** Unless otherwise provided in an Agreement or the Mortgage, the Borrower shall have no right to prepay all or any part of the principal Indebtedness prior to the maturity date set out in the Mortgage.
- 4.3 **Application of Payments.** Any payment received after 1:00 p.m Eastern Standard Time on any date when payment is due shall be deemed, for the purpose of calculating interest to have been made on the next Business Day and the Lender shall be entitled to interest on the amount due to it, up to and including the date on which the payment is deemed by this provision to have been received. Each payment will be applied as set out in the applicable Agreement. If an Agreement does not specify the manner in which payments will be applied, each payment will be applied as follows: first in payment of amounts payable under this Mortgage or any Agreement other than money borrowed and the interest; secondly in payment of interest; and thirdly in payment of the money borrowed.

## 5. Taxes

- 5.1 **Payment of Taxes by Borrower.** The Lender may deduct from any advance of monies secured by this Mortgage an amount sufficient to pay all Taxes which have become due and payable during any calendar year. The Lender may at its sole option estimate the amount of Taxes payable in each year and the Borrower shall forthwith on demand of the Lender pay to the Lender one twelfth ( $1/12^{\text{th}}$ ) of the estimated annual amount of such Taxes on each payment date during the term of this Mortgage commencing with the first payment date of this Mortgage.

The Lender may at its option apply such payments to the Taxes so long as the Borrower is not in default under any covenant contained in this Mortgage, but nothing herein obligates the Lender to apply such payments on account of Taxes more often than yearly. In no event shall the Lender be liable for interest on any unpaid account of Taxes and if the Borrower wishes to take advantage of any discounts or avoid any penalties in connection with the payment of Taxes, the Borrower may pay to the Lender such additional amounts as may be required for that purpose.

The Borrower shall transmit to the Lender's servicing agent all assessment notices, tax bills and other notices pertaining to the imposition of Taxes forthwith after receipt thereon. Without limiting any promise the Borrower has made to the Lender in any Agreement concerning the payment of Taxes, in the event the Lender does not collect from the Borrower money to pay Taxes, the Borrower promises to pay all Taxes when they are due and any other debt that could rank prior to this Mortgage and to send to the Lender at the Place of Payment, within thirty (30) days of the payment due date for such Taxes, evidence that such payments have been made. If the Borrower fails to pay Taxes as required, the Lender may, but is not obligated to, pay the Taxes, and any such amount paid by the Lender will be included as Costs and form part of the Indebtedness.

- 5.2 **Government Assistance.** The Borrower promises to apply for all government grants, assistance and rebates in respect of Taxes.

## 6. Other Promises of the Borrower

- 6.1 **Borrower Promises.** The Borrower promises:
- a. to comply with all terms and conditions of any charge or encumbrance of the Property that ranks ahead of this Mortgage;
  - b. to pay all Indebtedness, to perform all Obligations, and to comply with all terms of this Mortgage and the Agreements;

- c. to keep all buildings and improvements forming part of the Property in good condition and to repair them as needed or as the Lender reasonably requires and not to alter or tear down any building or part of a building forming part of the Property;
- d. to enforce and maintain in good standing all warranties and insurance relating to buildings and improvements forming part of the Property;
- e. to comply with Applicable Laws affecting the condition (such as the environmental condition), repair, use and occupation of the Property;
- f. to do all things and sign any other document that the Lender reasonably requires to ensure that the Indebtedness and Obligations remain secured by this Mortgage and that the Mortgage has priority over any other security over the Property, except as may otherwise be agreed to by the Lender;
- g. not to do or fail to do anything that has the effect of reducing the value of the Property or lowering the priority of this Mortgage and any other security in favour of the Lender (the Borrower is to promptly inform the Lender of any fact or event that could adversely affect the value of the Property or the financial condition of the Borrower or that could lower the priority of this Mortgage or other security held by the Lender for the Indebtedness and Obligations);
- h. to occupy the Property as a single family owner occupied residence and not to rent the Property or any portion of the Property without the express prior written consent of the Lender. If the Borrower has rented the Property to a tenant with the express prior written consent of the Lender, and if the Lender so requests, to keep records of all rents received and of all expenses paid by the Borrower in connection with the Property, and, at least annually, have a statement of revenue and expenses for the Property prepared by a chartered accountant, and to give a copy of the statement to the Lender;
- i. to insure and keep insured all buildings and improvements on the Property for not less than their full replacement value until this Mortgage is discharged, including, without limitation, (i) risks of loss or damage by fire with extended perils coverage and such additional perils, risks or events against which a prudent owner would insure the Property; (ii) if applicable, risks of loss and damage by explosion of, or caused by, any boiler or similar apparatus, against loss or damage caused by a sprinkler system; and (iii) if applicable, risks of loss from damage to or destruction of the Property resulting in interruption to or loss of revenue, rental income, or business income from the Property;
- j. to send to the Lender a copy of all insurance policies and renewals of same upon receipt and to ensure that all insurance policies required under this Mortgage are carried with a company approved by the Lender and contain mortgage clauses approved by the Insurance Bureau of Canada confirming that loss proceeds are payable to the Lender, that the Lender has the right to receive and to have a lien on the loss proceeds in accordance with its priority established under this Mortgage (the Borrower hereby assigns to the Lender all amounts payable under any of these policies), and that the insurer will promptly advise the Lender of any cancellation, or proposed cancellation of a policy by the insurer for any reason, (ii) any failure by the insurer to renew a policy for any reason and (iii) any material change in the risk insured by the insurer, if required by the Lender;
- k. on the happening of any damage, to furnish all necessary proofs to the Lender and do all necessary acts to enable the Lender to obtain payment of the insurance proceeds, with the intention that the Lender, in its discretion, may allow the Borrower to use the insurance proceeds to repair or rebuild the Property or may use such insurance proceeds to reduce the Indebtedness, whether due or not;

- l. to arrange for payments on account of Indebtedness to be made by pre-authorized withdrawals from an account of the Borrower, it being the Borrower's responsibility to ensure payments are made on the due date and to arrange for any replacement pre-authorized payment plan from a different account before the next due date if the Borrower changes financial institutions;
- m. to pay any money, which, if not paid, would result in a default under any permitted charge or encumbrance having priority over this Mortgage or which might result in the sale of the Property;
- n. to pay all utility and fuel charges related to the Property promptly as and when they are due and if such utilities are interrupted or discontinued to take all steps to have them restored immediately;
- o. to pay all the service fees set forth in the Agreement, including, without limitation, those required due to failure to make payments on their due date or dishonoured pre-authorized payment withdrawals; and
- p. to pay and cause to be discharged any liens or encumbrances over the Property that is not a prior encumbrance permitted by the Lender under this Mortgage.

6.2 **Promises regarding the Property.** The Borrower promises and declares to the Lender that:

- a. the Borrower:
  - (i) has good title to the Property;
  - (ii) has the right to give the Lender this Mortgage and that on Default the Lender can have quiet possession of the Property free from all encumbrances; and
  - (iii) will execute such further assurances of title to the Property as may be required by the Lender;
- b. the Borrower's title to the Property is subject only to:
  - (i) those charges and encumbrances that are registered in the registry of deeds, land titles or land registration office for the Property at the time the Borrower signed this Mortgage; and
  - (ii) any unregistered charges and encumbrances that the Lender has agreed to in writing;
- c. subject to paragraph (b) above, the Borrower:
  - (i) has not given or is not in the process of giving any other charge or encumbrance against the Property; and
  - (ii) has no knowledge of any other claim against the Property.

## 7. Promises between the Borrower and the Lender

7.1 **Lender May Fulfill Borrower's Obligations.** The Lender may, but is not required to, fulfill any of the obligations of the Borrower under the terms of an Agreement, this Mortgage or the Obligations, or spend any money to perform any such obligations.

- 7.2 **Subsequent Interests.** By this Mortgage, the Borrower grants and mortgages any additional or greater interest in the Property that the Borrower may later acquire.
- 7.3 **Inspection of Property.** The Lender or its insurer (if this Mortgage is insured), or their respective agents, may at any reasonable time or times inspect the Property and any buildings and improvements which form part of it, or have it appraised from time to time. In addition, the Lender or its insurer, or their respective agents, may conduct at any reasonable time or times any environmental testing, site assessment, investigation, or study that the Lender or its insurer considers necessary. The reasonable cost of any inspection, appraisal, testing, assessment, investigation, or study will be immediately due and payable by the Borrower and will form part of the Indebtedness. The Lender or its insurer, or their respective agents, will not become a mortgagee in possession by exercising these rights.
- 7.4 **Repairs by Lender.** The Lender, in its sole discretion, may enter the Property at any reasonable time or times to inspect the Property and request the Borrower to make any repairs that the Lender deems necessary, at the cost of the Borrower, but, just by doing so, the Lender will not become a mortgagee in possession nor will the Lender be under any obligation to make any repairs to the Property.
- 7.5 **Lender not Responsible for Maintenance.** If the Lender takes possession of the Property, the Lender will not be responsible for maintaining and preserving the Property or maintaining the use for which the Property is intended, except to the extent required by Applicable Laws, and the Lender need only account to the Borrower for any money the Lender actually receives in connection with this Mortgage or the Property while in possession of the Property.
- 7.6 **Notice to Lender.** If the Borrower wants to give any notice to the Lender, the Borrower must do so in writing and send the notice by registered mail to the Lender's Mailing Address.
- 7.7 **Notice to Borrower.** If the Lender wants to give any notice to the Borrower, the Lender must do so by having it delivered to the Borrower personally or by sending it by mail to the Borrower's Mailing Address.
- 7.8 **When Notice Received.** Any notice given by the Lender to the Borrower in accordance with this Mortgage is considered to have been received five days after the day on which it was mailed.
- 7.9 **Mail Strike or Disruption.** Any notice to be given during a mail strike or disruption must be delivered personally rather than sent by mail.
- 7.10 **Due on Sale and No Release.** In the event of a sale, conveyance or transfer of the Property or any portion thereof, all Indebtedness secured hereunder shall at the Lender's option, become due and payable forthwith unless the prior written consent of the Lender has been obtained which may be arbitrarily withheld. The Borrower is not released from the Indebtedness or the Obligations only because the Borrower transfers or otherwise conveys, or purports to transfer or otherwise convey, the Property or any interest therein.
- 7.11 **Other Mortgages.** If the Borrower has mortgaged, charged or granted any interest or security in any other property to the Lender to secure payment of any of the Indebtedness or the Obligations, the Lender may take all proceedings under any of those mortgages, charges, grants of interest or security as the Lender decides and as permitted by Applicable Laws.
- 7.12 **Consolidation with Other Mortgages.** The Lender is entitled to treat this Mortgage as one with any other mortgages given now or in the future by the Borrower to the Lender, so that the Lender can require that the requirements of all such mortgages, and this Mortgage, have to be satisfied in full before the Lender will be obligated to give a discharge of any of those mortgages or this Mortgage.



7.13 **Lender May Release Part of Property.** Whether or not the Lender receives any value, at all times the Lender may release any part or parts of the Property or any other security or any other Person's promise for payment of all or any part of the Indebtedness or performance of the Obligations, without being accountable to the Borrower except for the money the Lender actually receives. Notwithstanding any such release, the Property, security and promises of the Borrower and other Persons remaining unreleased will remain in effect for repayment of the Indebtedness and performance of the Obligations.

## 8. Defaults

8.1 **Events of Default.** A default (a "Default") occurs under this Mortgage if:

- a. the Borrower does not pay any installment of principal, interest, Taxes, Cost and/or utilities or any other Indebtednesses under this Mortgage on the date upon which any of the payments of the same become due;
- b. any statement, certification, representation, covenant or agreement of the Borrower or a guarantor given to the Lender in connection with the Indebtedness or any Obligations is or becomes untrue or misleading;
- c. the Borrower is in default in strictly performing and observing any Obligations or Borrower Promises at the time and in the manner required by the terms of an Agreement or this Mortgage;
- d. the Borrower breaches any promise, condition or agreement which the Borrower has made to the Lender in this Mortgage (or there is an occurrence that is deemed a Default under this Mortgage) or the Borrower or any other Person breaches a promise, condition or agreement in any Agreement even though the Borrower may not be in breach of a payment obligation under the Indebtedness;
- e. the Borrower ceases to carry on its operation, becomes insolvent or bankrupt, becomes subject to insolvency, reorganization, arrangement or similar proceedings affecting the rights of any creditor;
- f. the Property is abandoned or is left unoccupied for thirty (30) or more consecutive days;
- g. the Property or any part of it is expropriated or condemned;
- h. the Borrower sells or agrees to sell all or any part of the Property or the Borrower leases it or any part of it without the prior written consent of the Lender, which may be refused at the sole and arbitrary discretion of the Lender;
- i. the Borrower gives another mortgage of the Property to someone other than the Lender without the prior written consent of the Lender;
- j. any type of lien whatsoever, such as a mechanic's, builder's, or construction lien, judgment or any similar encumbrance is registered against the Property or the Lender receives notice that a lien or judgment will be obtained, unless prior written consent is obtained from the Lender for each instance of lien, judgement or encumbrance;
- k. the Property is subject to foreclosure proceedings, judicial sale, or otherwise seized by another mortgagee, encumbrancer, writ holder, receiver, or any agent of one of those, or any other Person performing similar functions;
- l. improvements to the Property remain unfinished and no work has been done for a period of fifteen (15) consecutive days;

- m. the Borrower is in default under any lease of the Property; or
- n. an event occurs which is stated to be a Default under this Mortgage.

8.2 **Lender Determines Default.** The Lender, in its sole discretion, will determine whether any Default has occurred.

## 9. Consequences of a Default

9.1 **Borrower's Rights Cease Upon Default.** Upon a Default occurring, the Borrower is not entitled to exercise any rights or entitlements under this Mortgage or any Agreement.

9.2 **Lender's Rights on Default.** If a Default occurs, the Lender, where and to the extent permitted by Applicable Laws, and then in any order that the Lender chooses, may do any one or more of the following:

- a. demand immediate payment of all the Indebtedness, in which case the Indebtedness will become immediately due and payable;
- b. demand immediate performance of all Obligations, in which case the performance of the Obligations will become immediately due;
- c. sue the Borrower for money that is due in respect of the Indebtedness or the performance of Obligations, or both;
- d. take proceedings and any other legal steps to compel the Borrower to satisfy the Indebtedness or perform the Obligations, or both;
- e. enter upon and take possession of the Property;
- f. sell the Property and any other property mortgaged by the Borrower to the Lender by public auction or private sale on terms decided by the Lender, including selling the Property for cash or credit or any combination of the two:
  - (i) on thirty-five (35) days notice to the Borrower if the Default has continued for fifteen (15) days (or longer or other period, if required by Applicable Laws); or
  - (ii) without notice to the Borrower if the Default has continued for sixty (60) days or more (if and to the extent permitted by Applicable Laws);
- g. lease the Property on terms decided by the Lender:
  - (i) on fifteen (15) days notice to the Borrower if the Default has continued for fifteen (15) days (or longer or other period, if required by Applicable Laws); or
  - (ii) without notice to the Borrower if the Default has continued for thirty (30) days or more (if and to the extent permitted by Applicable Laws);
- h. apply to a Court for an order that the Property be sold on terms approved by the Court;
- i. apply to a Court to foreclose the Borrower's interest in the Property so that when the Court makes its final order of foreclosure the Borrower's interest in the Property will be absolutely vested in and belong to the Lender;

- j. apply to a Court to have a receiver or receiver and manager or comparable officer of the Court appointed with respect to the Property or appoint a Receiver of the Property under this Mortgage;
- k. enter upon and take possession of the Property without the permission of anyone and make any arrangements the Lender considers necessary to:
  - (i) inspect, lease, collect rents or manage the Property;
  - (ii) complete the construction of any building on the Property; or
  - (iii) repair any building on the Property; and
- l. take whatever action is necessary to take, recover and keep possession of the Property.

9.3 **Powers of the Court.** Nothing in subsection 9.2 affects the jurisdiction of the Court.

9.4 **Application of Proceeds.** Any payments made of Indebtedness from money or other proceeds realized from the sale of any securities held in respect of such Indebtedness, including proceeds realized under this Mortgage, may be applied and reapplied notwithstanding any previous application on such part or parts of the Indebtedness as the Lender decides or may be held unappropriated in a separate collateral account for such time as the Lender decides.

9.5 **Deficiency After Sale.** Subject to Applicable Laws, if the proceeds available from realizing upon the Property pursuant to this Mortgage are not sufficient to pay all the Indebtedness, the Borrower will pay to the Lender on demand the amount of the deficiency.

9.6 **Payment of Lender's Expenses and Costs.** The Borrower will pay to the Lender on demand any Costs. Costs form part of the Indebtedness and will bear interest in accordance with terms of an Agreement and this Mortgage as they relate to Costs.

9.7 **Lender's Rights After Judgment.** If the Lender obtains judgment against the Borrower as a result of a Default, the remedies described in subsection 9.2 may continue to be used by the Lender to compel the Borrower to pay the Indebtedness and perform the Obligations. The Lender will continue to be entitled to receive interest on the Indebtedness, in accordance with and in the manner provided for such interest under the terms of an Agreement and this Mortgage, until the judgment is paid in full.

9.8 **No Waiver of Rights.** If the Lender does not exercise any of the Lender's rights on the happening of a Default or does not ask the Borrower to cure such Default, the Lender is not prevented from later compelling the Borrower to cure that Default or exercising any of those rights in connection with that Default or any later Default of the same or any other kind.

## 10. Construction of Buildings or Improvements

10.1 **No Construction, Alteration or Addition Without Consent.** The Borrower will not construct, alter or add to any buildings or improvements on the Property without the prior written consent of the Lender, and then only in accordance with accepted construction standards, building codes and municipal or government requirements and plans and specifications approved by the Lender and the insurer if this Mortgage is insured.

## 11. Rental

11.1 **Lender to Approve Rental.** If the Property or any part of the Property is intended to be used as owner-occupied residential premises, the Borrower represents that no part of the Property is rented or occupied by a tenant and the Borrower promises not to rent, lease or enter into a

tenancy agreement of any part of the Property without obtaining the Lender's prior written approval, which approval may be refused at the sole discretion of the Lender.

11.2 **Borrower's Obligations.** If the Property or any part of the Property is intended to be used as rental premises and the Lender has consented to such rental, the Borrower:

- a. must deliver to the Lender a copy of all leases related to the Property and will provide any and all information related to the rents on the Lender's request;
- b. will only lease the Property at a value corresponding to a lease at the fair market value and will not accept payment in advance of more than one month's rent; and
- c. assigns, as additional and separate security for the Indebtedness, all existing and future rents and leases relating to the Property. In particular, the Borrower transfers and assigns to the Lender as security:
  - (i) all leases, lease agreements, sub-leases, and offers to lease, and their renewals, whether in writing or not;
  - (ii) all rents and other money payable under the terms of all such leases, sub-leases, offers to lease, and agreements; and
  - (iii) all the Borrower's rights under such leases, sub-leases, offers to lease, and agreements.

11.3 **Receipt of Rents.** Notwithstanding subsection 11.2, the Lender will allow the Borrower to receive the rents as long as the Borrower is not in Default. If the Lender withdraws this privilege, the Lender may collect such rents and revenues and will be entitled to a reasonable commission, which it may deduct from any amounts collected.

11.4 **Lender Not Responsible.** Nothing done by the Lender under this section 11 will make the Lender a mortgagee in possession or will have the effect of making the Lender responsible for collecting rent or complying with any terms of any lease or agreement.

## 12. Receiver

12.1 **Lender May Appoint Receiver.** Upon Default, the Lender or the Lender as agent or attorney for the Borrower (with no such appointment being revocable by the Borrower), with or without entering into possession of the Property or any part thereof, may appoint in writing a Receiver and may remove any such Receiver and appoint a new Receiver in the place and stead of any previously appointed Receiver.

12.2 **Powers of Receiver.** Subject to Applicable Laws, the Receiver:

- a. will be deemed to be the Borrower's irrevocable agent or attorney, vested with all rights, powers and discretions of the Borrower, and the Borrower will be solely responsible for the Receiver's acts or omissions;
- b. has power, either in the Borrower's name or in the name of the Lender, to demand, recover and receive income from the Property and start and carry on any action or court proceeding to collect that income;
- c. may lease or sublease the Property or any part of it on terms and conditions that the Receiver chooses;
- d. may complete the construction of or repair any improvement on the Property;

- e. may take possession of all or part of the Property;
  - f. may manage the Property and maintain it in good condition;
  - g. has the power to perform, in whole or in part, the Borrower's duties under the terms of the Agreements, this Mortgage and the Obligations; and
  - h. has the power to do anything that, in the Receiver's opinion, will maintain and preserve the Property or will increase or preserve the value or income potential of the Property.
- 12.3 **Use of Income by Receiver.** From income received from the Property, the Receiver may, subject to Applicable Laws, in any order the Receiver chooses, (i) retain enough money to pay or recover the cost to collect the income and to cover other disbursements; (ii) retain its commission, fees and disbursements as receiver; (iii) pay all Taxes and the cost of maintaining the Property in good repair, completing the construction of any building or improvement on the Property, supplying goods, utilities and services to the Property and taking steps to preserve the Property from damage by weather, vandalism or any other cause; (iv) pay any money for matters required to be paid by the Receiver under Applicable Laws, or that might, if not paid, result in a default under any charge or encumbrance having priority over this Mortgage or that might result in the sale of the Property if not paid; (v) pay Taxes in connection with anything the Receiver is entitled to do under this Mortgage; (vi) pay interest to the Lender that is due and payable; (vii) pay all or part of the Indebtedness to the Lender whether or not it is due and payable; (viii) pay any other money owed by the Borrower under this Mortgage; and (ix) pay insurance premiums.
- 12.4 **Receiver May Borrow.** The Receiver may borrow money for the purpose of doing anything the Receiver is authorized to do.
- 12.5 **Borrower Responsible for Borrowing by Receiver.** Any money borrowed by the Receiver from the Lender, and any interest charged on that money and all the costs of borrowing, will form part of the Indebtedness and will bear interest at the rate and to be paid with the frequency provided under the applicable terms upon which such money was borrowed.
- 12.6 **Receiver's Costs and Expenses.** The fees and disbursements of the Receiver, if paid by the Lender, will form part of the Indebtedness and will bear interest according to the terms of an Agreement and this Mortgage.
- 12.7 **Lender Not Responsible.** Nothing done by the Receiver under this section 12 will make the Lender a mortgagee in possession, and the Borrower hereby releases and discharges the Lender and every Receiver from every claim of every nature, whether sounding in damages for negligence or trespass or otherwise, which may arise or be caused to the Borrower or any Person claiming through or under it by reason or as a result of anything done by the Lender or any Receiver under the provisions of this section 12. The Borrower agrees to ratify and confirm all actions of any Receiver taken or made pursuant to this provision and agrees that neither the Receiver nor the Lender will be liable for any loss sustained by the Borrower or any other Person resulting from any such action or failure to act.

### 13. Strata/Condominium Provisions

- 13.1 **Strata/Condominium Provisions.** This section 13 applies if the Property is or becomes a strata/condominium or strata property created under the Applicable Laws. The Borrower will comply with this section 13 in addition to all other terms of this Mortgage and Applicable Laws.
- 13.2 **Borrower Will Obey Strata/Condominium Rules.** The Borrower will perform all of the Borrower's obligations as a strata/condominium owner under the Applicable Laws and the declaration, bylaws, rules and regulations of the strata/condominium corporation (the

"Constituting Documents") and will pay all money owed by the Borrower to the strata/condominium corporation.

- 13.3 **Insurance.** The Borrower will cause the strata/condominium corporation to insure the Property and the common property (or common elements), in accordance with the Applicable Laws. In addition, the Lender agrees that the provisions of the Applicable Laws regarding the insurance proceeds will prevail notwithstanding subsection 6.1(k).
- 13.4 **Right to Vote.** The voting rights of the Borrower as owner are exercisable by the Lender on written notice to the strata/condominium corporation as provided by the Applicable Laws, and the amendments thereto, but the Lender is not required to attend meetings of the strata/condominium corporation or to exercise such rights, whether or not notice is given. The Borrower hereby irrevocably assigns all voting rights to the Lender, provided until the Lender gives written notice of this Mortgage to the strata/condominium corporation, the Borrower may exercise voting rights.
- 13.5 **Borrower to Supply Copies of Documents.** At the request of the Lender, the Borrower will give the Lender copies of all notices, financial statements and other documents given by the strata/condominium corporation to the Borrower.
- 13.6 **Lender is Borrower's Agent.** The Borrower appoints the Lender to be the Borrower's agent to inspect or obtain copies of any records or other documents of the strata/condominium corporation that the Borrower is entitled to inspect or obtain, including the amount of any assessments or payments due to the strata/condominium corporation by the Borrower. The Lender is entitled to make inquiries as to the status of the Borrower's common expense contributions.
- 13.7 **Indebtedness May Become Due.** If the strata/condominium corporation transfers, charges or adds to the common property (or common elements), or amends its Constituting Documents without the consent of the Lender, and if, in the Lender's opinion, the value of the Property is reduced, there is a Default.
- 13.8 **Lender May Require Payment.** At the option of the Lender, and subject to compliance with Applicable Laws, there is a Default if:
- a. governance of the property of the strata/condominium corporation under the Applicable Laws is terminated or wound up as described in the Applicable Laws or the Constituting Documents;
  - b. a vote of the strata/condominium owners authorizes the sale of the property of the strata/condominium corporation or of a part of its common property (or common elements);
  - c. the strata/condominium corporation fails to comply with the Applicable Laws or the Constituting Documents;
  - d. the strata/condominium corporation fails to insure the strata/condominium units and common property (or common elements) against destruction or damage by fire and other perils usually insured against for full replacement cost; or
  - e. the strata/condominium corporation fails, in opinion of the Lender, to manage its property and assets in a careful way or to maintain its assets in good repair.
- 13.9 **Strata/Condominium Expense Default.** Where the Borrower defaults in the obligation to contribute to the administrative expenses assessed or levied by the strata/condominium corporation, or any authorized agent on its behalf, or any assessment, instalment or payment due to the strata/condominium corporation or upon breach of any covenant or the provisions herein before in this subsection 13.9 contained, regardless of any other action or proceeding taken or to

be taken by the strata/condominium corporation, the Lender, may at its sole option and discretion and without notice to the Borrower:

- a. pay such expenses or levies and add any such payments to the Indebtedness and such amounts will bear interest according to the terms of an Agreement and this Mortgage; or
- b. deem such default to be a Default under this Mortgage.

Upon Default and notwithstanding any other right or action of the strata/condominium corporation or of the Lender, the Lender may distrain for arrears of any assessments, instalments or payments due to the Lender or arising under this provision.

13.10 **Lender Not Responsible.** Nothing done by the Lender under this section 13 will make the Lender a mortgagee in possession.

#### **14. Subdivision**

14.1 **Effect of Subdivision.** If the Property is subdivided:

- a. this Mortgage will charge each subdivided lot as security for payment of all the Indebtedness and performance of Obligations; and
- b. the Lender is not required to discharge this Mortgage as a charge on any of the subdivided lots unless all the Indebtedness is paid and Obligations are performed.

#### **15. Indebtedness Insured Pursuant to National Housing Act**

15.1 All provisions of this Mortgage apply to Indebtedness insured by CMHC and if there is a conflict between the provisions of this Mortgage and this section 15, the following will prevail to the extent of the conflict:

- a. National Housing Act. National Housing Act applies to any portion of the Indebtedness insured by CMHC.
- b. Taxes. The Lender may allow the Borrower to pay the Taxes directly to the appropriate authority, subject to such conditions as the Lender may set from time to time. In that case, the Borrower will pay the Taxes in the manner described in section 5. The Borrower, however, agrees that the Lender may withdraw this privilege at any time and the Borrower will pay the Taxes in the manner set out in the applicable Agreement.
- c. Insurance. The Borrower promises to insure the Property in accordance with paragraph 6.1(i) and (j) above. In addition, the Borrower will send a certified copy of each insurance policy immediately upon the execution of this Mortgage and, not less than fifteen (15) days before any policy expires, the renewal certificate or certified copy of the replacement policy to the Lender at the Place of Payment.
- d. Inspection of Property. The Lender or its agent or CMHC's agent may inspect the Property in accordance with subsection 7.3 above.
- e. Interest Adjustment Date. The definition of the interest adjustment date is specified in the Agreements relating to any portion of the Indebtedness insured by CMHC, if applicable.

#### **16. Spouse of the Borrower**

16.1 **Consent of Spouse.** Unless such affidavits and other documents are separately delivered to the Lender as required under Applicable Laws to release to the Lender any claim or interest of a

Spouse in and to the Property, any Spouse who is signing the Mortgage Form consents to the granting of this Mortgage by the Borrower and releases to the Lender any claim or interest that the Spouse has or may have in the Property under Applicable Laws as far as such release is necessary to give effect to the Lender's rights under this Mortgage.

## 17. General

- 17.1 **Who this Mortgage Binds.** This Mortgage binds the Borrower, a Spouse (if any Spouse is signing the Mortgage Form) and their respective heirs, personal representatives, successors, executors, administrators and assigns.
- 17.2 **Amendments.** Any agreement to make material changes to this Mortgage will not only apply to those who agree to the changes in writing, but to any Person, such as the Spouse (if any), who signed the Mortgage Form.
- 17.3 **Joint and Several Obligations.** Each Person who signs this Mortgage as a Borrower is jointly and severally liable for all of the Indebtedness and the performance of the Obligations.
- 17.4 **Unenforceable Provisions.** If any part of this Mortgage is not enforceable or invalid, all other parts of this Mortgage will remain in full effect and be enforceable against the Borrower and any Spouse who is signing the Mortgage Form.
- 17.5 **Lender May Make Changes.** The Lender may, without consent or notice, assign, grant security interests in or otherwise dispose of all or some of the Indebtedness or this Mortgage.
- 17.6 **Responsibility of Lender.** The Lender is only liable to the Borrower for the Lender's intentional fault or gross negligence.
- 17.7 **Lender May Delegate.** The Lender may delegate the exercise of its rights or the performance of its obligations to another Person. In that event, the Lender may furnish that Person with any information it may have concerning the Borrower or the Property.
- 17.8 **Headings.** Headings in the Mortgage do not form part of this Mortgage but are used only for easy reference.
- 17.9 **Interpretation.** In this Mortgage the singular includes the plural and vice versa.
- 17.10 **Conflicts Between Documents.** If there is a conflict between any provision of this Mortgage and any Agreement, the relevant provision in the Agreement will prevail to the extent of the conflict.
- 17.11 **Further Assurances of the Borrower.** At the request of the Lender, the Borrower will execute such further assurances of the Property or this Mortgage as may be requisite.
- 17.12 **Extent of Estate.** And for better securing to the Lender the repayment in the manner aforesaid of the Indebtedness and the performance of the Obligations, the Borrower hereby mortgages to the Lender all of the Borrower's estate and interest in the Property.
- 17.13 **Power of Attorney.** In consideration of the mutual promises of the Lender and the Borrower in this Mortgage, the Borrower grants to the Lender, with full power of substitution, an irrevocable power of attorney coupled with an interest to perform any action or to sign any document required to allow the Lender to fully exercise the rights granted under this Mortgage or any Agreement and to deal with the Property. The Borrower ratifies in advance all actions of the Lender pursuant to such power of attorney and confirms that the Lender is not liable for any loss sustained by the Borrower or any other Person resulting from any such action or any failure to act.



- 17.14 **Rights and Remedies.** The Lender may exercise all rights and remedies in this Mortgage, any Agreement or under Applicable Laws, concurrently, cumulatively, independently and in such order and combination and at such times as the Lender sees fit. In doing so, the Lender is not obligated to exhaust any one right or remedy before exercising any of its other rights or remedies.
- 17.15 **Property Located in Saskatchewan.** If the Property is located in Saskatchewan and the Borrower is a corporation:
- a. The Land Contracts (Actions) Act of Saskatchewan shall have no application to any “action”, as defined in that Act, with respect to this Mortgage; and
  - b. The Limitation of Civil Rights Act of Saskatchewan shall have no application to this Mortgage or any Agreement or to the Lender and any other Person who may have rights, powers or remedies under this Mortgage or any Agreement.
- 17.16 **Property Located in Ontario** If the Property is located in Ontario, the implied covenants deemed to be included in a Mortgage pursuant to the Land Registration Reform Act (Ontario) shall be and are hereby expressly excluded and replaced by the terms hereof which are the covenants by the Borrower.

## 18. Guarantor(s) Promises and Agreements

- 18.1 Each Guarantor, in consideration of the lender making the loan to the Borrower intended to be secured by this Mortgage, by signing this Mortgage:
- a. in addition to its Obligations under sub-paragraphs (b) and (c) of this section 18.1, agrees to be liable with the Borrower as principal debtor and not as surety for the due payment of the Indebtedness, at the times and in the manner provided for in this Mortgage;
  - b. in addition to its Obligations under sub-paragraphs (a) and (c) of this section 18.1, unconditionally guarantees full performance and discharge by the Borrower of all of the Obligations of the Borrower under this Mortgage at the times and in the manner provided for in this Mortgage;
  - c. in addition to its Obligations under sub-paragraphs (a) and (b) of this section 18.1, will indemnify and save the Lender harmless from and against all losses, damages, costs and expenses which the Lender may sustain, incur or be or become liable for in respect of the loan secured by this Mortgage, including:
    - (i) the failure, for any reason, of the Borrower to pay the Mortgage money or to do any other act, matter or thing pursuant to the provisions of this Mortgage; and
    - (ii) any act, action or proceeding of or by the Lender for or in connection with the recovery of the Indebtedness or any part thereof or obtaining performance by the Borrower or any other person of any other act, matter or thing pursuant to the provisions of this Mortgage;
  - d. agrees that the Lender may, at any time and without notice to, or consent or concurrence by any Guarantor, renew the Mortgage on the same or different terms, make any settlement, compromise, composition, extension, alteration or variation in the terms of the Mortgage, including any increase in the interest rate or principal amount secured by this Mortgage, or take, release or surrender any security, or otherwise deal with the Borrower and that no such dealing by the Lender nor any carelessness or neglect by the Lender in asserting its rights nor any other thing whatsoever, including, without in any way limiting the generality of the foregoing, failure to register or perfect any security, the loss by operation of law of any right of

the Lender against the Borrower or any other person or the loss or destruction of any security nor any dissolution, winding up, receivership, insolvency of the borrower or any other Guarantor or person in any way releases or diminishes the liability of the Guarantor under this Mortgage;

- e. agrees that the Lender will not be obliged to proceed against the Borrower or any other person or to enforce or exhaust any security before proceeding to enforce the Obligations of any Guarantor set out in this mortgage, and that enforcement of those Obligations may take place before, after or contemporaneously with the enforcement of any debt or Obligation of the Borrower or the enforcement of any security for that debt or Obligation; and
- f. agrees with the Lender to be jointly and severally liable under this Mortgage with the Borrower and all other Guarantors.

Each of the Guarantor's Obligations will be binding upon the Guarantor's successors, assigns, personal representatives and administrators.