

Form 16

APPLICATION FOR OPTIONAL MORTGAGE COVENANT

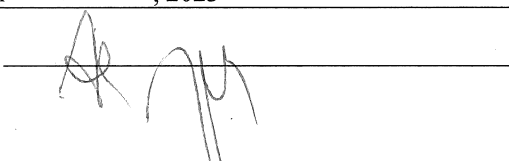
*Land Titles Act, S.N.B. 1981, c.L-1.1, s.25*

Applicant: ICICI Bank Canada  
PO Box 351, Station "C", Kitchener, Ontario N2G 3Y9

Optional Mortgage Covenant: See Attached Covenants & Schedule F

The Applicant applies for the assignment of a number to the specified optional mortgage covenant.

Date: March 17, 2023

Applicant: 

Number assigned to the specified optional mortgage covenant: BC-4475

Registrar General of Land Titles

**ICICI BANK CANADA***Land Titles Act (New Brunswick)***SET OF STATUTORY COVENANTS & CONDITIONS****FIXED AND VARIABLE RATE RESIDENTIAL CHARGE/MORTGAGE**

Filed by: ICICI Bank Canada

Filing Date: May \_\_\_\_, 2023

Filing Number: \_\_\_\_\_

The following set of standard charge terms shall be deemed to be included in every charge in which the set is referred to by its filing number.

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1. DEFINITIONS In this set of standard charge terms:

"**Act**" means the means the *Land Titles Act*, SNB 1981, c L-1.1, and any amendments thereto in effect at the time of execution and delivery of the registered document;

"**actual mortgage rate**" means the interest rate per annum calculated in accordance with the applicable interest calculation period, not in advance, all as set out in the mortgage and applicable as well after as before maturity, default and judgment;

"**borrower**", "**you**" and "**your**" mean each person who signs the mortgage as chargor and his, her or their successors and assigns and these terms may be used interchangeably in this set of standard charge terms;

"**CMHC**" means Canada Mortgage and Housing Corporation and its successors and assigns;

"**ICICI Bank prime rate**" means ICICI Bank Canada's annual rate of interest announced from time to time as its benchmark prime rate of interest for Canadian dollar loans, which rate is subject to change from time to time at ICICI Bank's sole discretion;

"**interest adjustment date**" means the interest adjustment date set out in the mortgage;

"**Land Titles Office**" means the Province of New Brunswick Land Titles Office where the property is registered;

"**ICICI Bank**", "**lender**", "**we**", "**our**" and "**us**" means ICICI Bank Canada, the chargee, and its successors and assigns;

"**loan agreement**" means the mortgage commitment and any other agreement between you and us setting out the terms of the loan or loans secured by the mortgage, as the same may be amended, renewed, extended, replaced or supplemented from time to time;

"**loan amount**" means, collectively, all present and future indebtedness and liability owing by you to us under or secured by the mortgage including, without limitation, the principal amount, interest and all other amounts owing to us from time to time under the mortgage;

"**maturity date**" means the date set out in the mortgage on which the outstanding principal amount is due and payable;

"**mortgage**", when used as a noun, means for the non-electronic paper-based registration system the Form 15 and any schedules attached thereto, and this set of standard charge terms, as any of these may be amended or renewed from time to time;

"**Other Claims**" means, collectively, any and all liens, charges, mortgages, statutory liens, liens for arrears of taxes, liens for arrears of condominium common element expenses or other condominium charges or expenses, executions, rights, and other encumbrances against, binding or affecting the property;

"**principal amount**" means the amount set out as the principal amount in the mortgage (as may be amended from time to time);

"**property**" means the real property legally described in the mortgage, all buildings and structures now on the land or later added, and anything now or later attached to or fixed to any building or structure on the land or attached to or fixed to the land, including, without limitation, all additions, alterations, substitutions, improvements, equipment and other apparatus, fixtures, accessions and accretions of any kind or nature on the land and in the case of a condominium unit includes, without limitation, the common elements and any other interest you have in the condominium corporation (as defined in section 25) or its assets;

"**registered document**" means for the non-electronic paper based registration system, the Form 15 Charge/Mortgage of Land that you sign to give this mortgage and any schedules attached to it, or, for the electronic registration system, the charge prepared in the electronic format, and any schedules attached to it, and registered electronically pursuant to the provisions of the Act;

"**schedule**" means any schedule to the mortgage;

"**section**" or "**subsection**" refers to a numbered section or subsection of this set of standard charge terms;

"**successor**" means an heir, executor, administrator, personal representative or successor;

"**taxes**" means all taxes, rates and assessments of any nature or kind with respect to the property, whether federal, provincial, municipal or otherwise, including, without limitation, property taxes, school taxes, local improvement rates, interest and penalties payable and special assessments with respect to the property;

"**term**" means the term of the mortgage, which is the period commencing on the interest adjustment date and ending on the maturity date; and

"**variable rate**" or "**variable interest rate**" means the interest rate calculated pursuant to subsection 4(a).

## 2. OUR LOAN TO YOU

In consideration of our lending you the principal amount or such of the principal amount as is advanced to you from time to time (which by signing and delivering the mortgage you acknowledge having received from us):

- a) if you own the property, you charge your entire interest in the property to us; or
- b) if you lease the property, you charge and sublease to us your entire interest (including, without limitation, any option or right of first refusal to purchase) in the property for the entire term (except the last day) or renewal thereof (except the last day) of your lease; and
- c) if you lease the property and you subsequently acquire the freehold title to the property, this mortgage will by operation of law become a mortgage of the freehold interest in the property to the same extent and effect as if you had been the owner of the freehold, free from encumbrances, at the date of the mortgage. For the purposes of this section, you hereby grant, mortgage and charge the freehold interest in the property to and in favour of us, such grant, mortgage and charge to take effect upon your acquiring freehold title to the property,

in each case, to secure repayment of the loan amount and the performance of all your obligations under the mortgage.

Our interest in the property ends when you have repaid the loan amount in full as provided in the mortgage and you have complied with all of your other obligations under the mortgage and we have delivered to you a discharge of the mortgage.

## 3. FIXED INTEREST RATE (Applicable only to Fixed Rate Mortgages)

The interest rate that you are required to pay, and the frequency of the payments of principal and interest, are set out in the registered document. Interest will be calculated semi-annually not in advance. The first semi-annual calculation of interest after the interest adjustment date will be for the six-month period from and including the interest adjustment date. That calculation will be made six months after the interest adjustment date and semi-annual calculations of interest will be made every six months after that. Interest is payable on the loan amount at the interest rate set out in the registered document both before and after the balance due date in the registered document, default and judgment, until the loan amount has been paid in full.

## 4. VARIABLE INTEREST RATE (Applicable only to Variable Rate Mortgages)

### a) Interest Rate

At any particular time, the interest rate payable by you is referred to in this section 4 as the "**current mortgage rate**". The frequency of the payments of principal and interest are specified in the mortgage. Interest is calculated semi-annually not in advance and is payable on the loan amount both before and after the balance due date, default and judgment, until the loan amount has been paid in full.

The interest rate payable by you specified in the registered document is a variable rate which is adjusted daily as the ICICI Bank prime rate changes from time to time. The interest rate payable shall be the rate per annum equal to the ICICI Bank prime rate plus or minus the number of percentage points per annum, if any, indicated in the registered document. The interest rate may change without any prior notice to you to reflect any changes in the ICICI Bank prime rate.

### b) How you may determine your interest rate

After each change in the ICICI Bank prime rate, we may notify you by mail, electronic means or other means as we may from time to time determine, at the most current address we have for you of the changed ICICI Bank prime rate, its effective date and the current mortgage rate. The interest

rate will still vary under subsection 4(a) even if we fail to send you such notice or you fail to receive it. The ICICI Bank prime rate in effect at any time is available by calling us at the telephone number set out in the loan agreement or by visiting the internet website set out in the loan agreement.

In the event that it may be necessary to prove the ICICI Bank prime rate applicable at any time, it is agreed that the certificate in writing of ICICI Bank setting out the rate as at any time shall be deemed to be conclusive evidence as to the rate at such time.

c) **Deferred Interest**

The amount of interest that has accumulated on the loan amount from one regular payment to the next which exceeds the regular loan payment is called “**deferred interest**”. Interest at the current mortgage rate will be charged on the deferred interest from and including such regular payment date. On the next regular payment date, all interest which has accumulated on deferred interest from the previous regular payment date will be added to and become deferred interest and will itself bear interest from and including the regular payment date at the current mortgage rate. The amount of deferred interest from time to time may be obtained by contacting us. Deferred interest will apply to variable rate even if monthly payment amounts are increased with increases in interest rates.

**5. COMPOUND INTEREST**

If you do not make the regular mortgage payment or any other payment when required by the mortgage, we will charge interest at the rate provided for in the mortgage (called “**compound interest**”), both before and after maturity, default and judgment on all overdue amounts. You must pay compound interest immediately when we require, both before and after maturity, default and judgment. We will add any overdue amount (including interest and compound interest) to the loan amount.

**6. REPAYMENT OF LOAN AMOUNT**

a) **Currency and Place**

You will pay the loan amount to us in lawful Canadian dollars at the address set out in the mortgage or as you may be notified in writing. If any payment is made on a day that is not a business day, the payment will be deemed to be made on the business day next following the payment date. Business days do not include Saturdays, Sundays or statutory holidays for the Province of New Brunswick. Unless we otherwise agree in writing, any payments to be made by you are due and payable as provided in the mortgage.

b) **Interest Adjustment Date**

Interest on all advances up to the interest adjustment date will be calculated in the manner and at the rate specified in the registered document in effect on the date of each advance up to but not including the interest adjustment date. At our option, such interest will either be paid by you or deducted from the principal amount by us on the interest adjustment date, be deducted by us from any advance or advances which we make, or be deducted by us on the first regular payment date.

c) **Regular Payments**

You will make regular payments of principal and interest to us on the payment dates specified in the registered document each in the amount specified in the registered document, starting with the first payment date until and including the maturity date. You will pay the outstanding balance of the loan amount on the maturity date.

d) **Payment Provisions on Default**

If you do not make a payment when required or do not meet any of your other obligations specified in the mortgage, you must, at our option, immediately pay to us all outstanding arrears. We may, if we wish, require you to make all following payments of principal and interest, taxes and insurance premiums (if applicable) on a monthly basis. In such an event, we may (subject to any other provisions of the mortgage) require you to pay interest to the first day of the following month within 15 days of notice from us, which will be added to the loan amount if you do not do so. We may also exercise our rights under section 17.

e) **Bank Account for Payments**

You will maintain an account of a type satisfactory to us with ICICI Bank, a branch of a Canadian chartered bank or trust company or such other bank, trust company or credit union as

approved by us in writing and provide an authorization in a form acceptable to us to automatically debit each payment of principal, interest, taxes and insurance premiums (if applicable) when due. You will ensure that the account always contains sufficient funds to meet each payment. Failure to maintain sufficient funds in the account, cancellation of the authorization or closing the account will be considered to be a default under the mortgage. You agree to pay us our then current administration and processing fees for any actions which we have to take under this section 6.

f) **Principal Balance never to exceed 105% of Original Principal Amount (Applicable only to Variable Rate Mortgages)**

In the event that the total of the outstanding principal balance of the mortgage plus all regular and variable accrued interest thereon equals or exceeds 105% of the original principal amount, you shall be required to:

- i. increase the amount of your regular mortgage principal and interest payment so that the mortgage will be repaid in full over the registered amortization period, less the amount of time that has elapsed since you took out the mortgage;
- ii. make a lump sum payment on account of principal plus regular and variable accrued interest in order that the resulting balance not exceed 100% of the original principal amount for the remainder of the current term;
- iii. convert the mortgage to one having a fixed rate of interest, equal monthly payments for any term then being offered by us for *National Housing Act, R.S.C. 1985, c. N-11*, as amended or replaced from time to time, insured loans. There will be no charge for converting to the longer term. The rate will be the current posted rate for the appropriate term. The rate change will be effective on the first of the month following notification, in writing, of the requested modification; or
- iv. a combination of any of (i), (ii), or (iii).

If you are unable to do one of (i), (ii), (iii) or (iv) above, then, at our option, the mortgage will become immediately due and payable.

g) **Term/Amortization (Applicable only to Variable Rate Mortgages)**

The annual interest rate specified in the mortgage is subject to variations as set out herein. The principal and interest payment, however, may be fixed during the term of the mortgage unless changed by you pursuant to the terms of the mortgage, if applicable. Payments are applied to the current interest on the outstanding principal amount owing up to the date of such payment and then the balance, if any, to the principal amount. If the ICICI Bank prime rate increases, a larger portion of the regular payment will be applied to interest and a smaller portion to principal, with the result that the balance owing on the maturity date may be larger than the amount originally set out in your mortgage disclosure statement. If the interest rate rises such that your principal and interest payment will no longer cover the interest portion of the mortgage owing, the amortization period of the mortgage may increase. In such a case, you may be required to increase the amount of your regular principal and interest payment so that the mortgage will be repaid in full over the registered amortization period, less the amount of time that has elapsed since you took out the mortgage.

h) **How We Apply Your Payments**

Each of your regular payments will be used in the following order: (i) to pay insurance premiums payable in respect of the mortgage, if any; (ii) to bring into good standing any accounts in which funds are held pending payment to third parties or from which amounts are debited in respect of the mortgage, including tax accounts; (iii) to pay for the cost of optional services made available by us and selected by you, if any; (iv) to pay any collection expenses or any applicable administration or processing fees; (v) to pay interest or reduce the interest (including any deferred interest, outstanding interest or late interest charges) on the principal amount accumulated to but not including the payment date; and (vi) to reduce the principal amount. However, if you do not meet any of your obligations under the mortgage, we may apply your payment or any other money we receive towards any part of the loan amount we choose.

## 7. PREPAYMENT RIGHTS

a) **Fixed Rate Closed Mortgages**

If you are not in default under the mortgage, you may on any regular payment date, prepay an amount or amounts to be applied to the outstanding principal amount without penalty or bonus

provided that:

- i. the property does not contain more than four living units and is not being used in whole or in part for commercial, industrial or non-residential purposes;
- ii. each such prepayment is at least \$100;
- iii. the total of all such prepayments during any 12-month period from the interest adjustment date or an anniversary of such date does not total more than 20% of the principal amount set out at the beginning of the term;
- iv. if you do not completely use such prepayment privilege in any 12-month period from the interest adjustment date or an anniversary of such date, it cannot be carried forward to the next or any future such 12-month period; and
- v. if you are not in default under the mortgage, you may, effective any regular payment date and on written notice to us, increase your regular payments without penalty, provided that the maximum amount of the increase to your regular payment will be 20% of your regular principal and interest payment as set out in the mortgage at the beginning of the term. After you have increased your regular payment amount, you may, effective any payment date, decrease your regular payment amount to an amount not less than the principal and interest payment as set out in the mortgage at the beginning of the term.

Such prepayment privilege shall not be cumulative. Any other early repayment may only be made upon the payment of the “**prepayment interest rate differential amount**” or three months' interest at the actual mortgage rate calculated on the loan amount, whichever is greater. The term ““**prepayment interest rate differential amount**” means the amount determined in subsection i. below minus the amount determined in subsection ii. below:

- i. the interest costs calculated from the prepayment date to the maturity date of your mortgage at your existing annual interest rate (plus any discount you received on your existing annual interest rate) on the amount prepaid by you; and
- ii. the interest costs calculated at the reinvestment rate (the posted rate for the remaining term of the mortgage) from the date of prepayment to the maturity date of your mortgage on the amount prepaid by you.

#### b) Variable Rate Mortgages

If you are not in default under the mortgage, you may, on any regular payment date, prepay an amount or amounts to be applied to the outstanding principal amount, without penalty provided that:

- i. the property does not contain more than four living units and is not being used in whole or in part for commercial, industrial or non-residential purposes;
- ii. each such prepayment is at least \$100;
- iii. the total of all such prepayments paid during any 12-month period from the interest adjustment date or an anniversary of such date does not total more than 20% of the principal amount set out at the beginning of the term;
- iv. if you do not completely use such prepayment privilege in any 12-month period from the interest adjustment date or an anniversary of such date, it cannot be carried forward to the next or any future such 12-month period; and
- v. if you are not in default under the mortgage, you may, effective any regular payment date and on written notice to us, increase your regular payments, without penalty, provided that the maximum amount of the increase to your regular payment will be 20% of your regular principal and interest payment in the mortgage at the beginning of the term. After you have increased your regular payment amount, you may, effective any payment date, decrease your regular payment amount to an amount not less than the principal and interest payment as set out in the mortgage at the beginning of the term.

Any other early repayment may only be made upon the following conditions where you will have to pay the higher of the amounts referred to in (i) or (ii) below:

- i. the mortgage can be prepaid in full on payment of with three months' interest penalty at the interest rate stipulated in the mortgage; OR
- ii. the mortgage can be prepaid in full on payment of the interest rate differential, which is the difference between:
  - a) the interest costs calculated from your last scheduled regular payment date which falls on or before the prepayment date (whether or not such regular payment was made) to the maturity date of your mortgage at your existing annual interest rate (plus any discount you received on your existing annual interest rate) on the amount prepaid by you; and
  - b) the interest costs calculated at the reinvestment rate (the applicable posted rate for the remaining term) from your last scheduled regular payment date which falls on or before the date of prepayment (whether or not such regular payment was made) to the maturity date of your mortgage on the amount prepaid by you.

## 8. CONVERTIBILITY

You shall be entitled at any time when not in default under the mortgage to ask for an amendment to the mortgage. If we agree to amend the mortgage, such amendment shall be in accordance with a mortgage amending agreement in form and substance satisfactory to us, which shall stipulate, among other things, the date on which the amendments in the mortgage amending agreement take effect, and an interest rate and other terms to be mutually agreed by us and you at the time the mortgage amending agreement is entered into.

## 9. EARLY RENEWAL (Applicable only to Fixed Rate Mortgages)

In the event that the mortgage is amended to extend the term hereof, the date of the mortgage for the purpose of the application of section 9 of the *Interest Act* (Canada), R.S.C. 1985 c. I-15, as amended or replaced from time to time, or any similar federal or provincial legislation permitting prepayment, shall be conclusively deemed to be the first day of the last extension of time for payment and the mortgage as amended shall not, at any time or times, be subject to prepayment, in whole or in part, save as may be herein provided.

If the property contains more than four living units or if the property is used in whole or in part for commercial, industrial or other non-residential purposes, then you have no right of early renewal.

If you have complied with all of your obligations under the mortgage and the property either contains no more than four living units or is a single residential condominium unit, then you may renew the mortgage before the maturity date. You must apply to us in writing to use this right of early renewal. You may renew the mortgage by selecting from the mortgage options that we offer at the time that you apply for early renewal and you must sign a mortgage amending agreement acceptable to us which will contain the applicable interest rate and other terms and conditions of the amendments to the mortgage. You agree to pay us our then current administration and processing fees to renew the mortgage, together with any accumulated interest which may result from a change in the frequency of the regular payments to be made. You also agree that you will pay all legal expenses with respect to the renewal documentation and its registration.

## 10. CERTAIN PROMISES YOU MAKE TO US

- a) You certify and agree with us that:
  - i. you will pay the loan amount as required by the mortgage, will pay taxes as required under section 13, and will comply with all of your other obligations under the mortgage;
  - ii. unless you are the tenant of the property, you are the lawful owner of the property and there are no encumbrances affecting title to the property;
  - iii. you have the right to give us the mortgage;
  - iv. there are no limitations affecting title to, or your interest in, the property except for any restrictions registered in the Land Titles Office and except for building and zoning by-laws, with which you have complied;
  - v. to the best of your knowledge and belief, after reasonable enquiry and investigation:
    - A. no condition exists on the property which is in contravention of any law, regulation, by-law, order or other legally binding requirement that relates to the protection of the environment, hazardous substances or public health



- and safety;
- B. no part of the property or of any adjoining land is, has been or will in the future be used to manufacture, refine, handle, treat, store, dispose of or otherwise deal with any hazardous substances except in compliance with all laws, regulations, by-laws, orders and other legally binding requirements;
  - C. there are no underground or aboveground storage tanks on the property except in compliance with all laws, regulations, by-laws, orders and other legally binding requirements relating to underground and aboveground storage tanks, the protection of the environment, hazardous substances or public health and safety;
  - D. no part of the property contains or will in the future contain any hazardous substance except in compliance with all laws, regulations, by-laws, orders and all other legally binding requirements;
  - E. no claim, notice, order, investigation or other proceeding, in each case pursuant to any law, regulation, by-law, order or other legally binding requirement that relates to the protection of the environment, hazardous substances or public health and safety, has been made, issued or threatened in relation to any condition on the property; and
  - F. no part of the property is currently being used in non-compliance with any law, regulation, by-law, order or other legally binding requirement relating to the protection of the environment, hazardous substances or public health and safety;
- vi. we may (but are not obligated to) require you, at your expense, to obtain an environmental audit assessment (which may include any intrusive environmental investigations of the property we deem necessary and desirable) of all or any part of the property, which environmental audit or assessment must be satisfactory to us, but such audit or assessment does not relieve you from your obligations under this section;
  - vii. at any time that a change in the environmental condition on or with respect to the property makes any of the above statements untrue, you will provide us a written notice of such change immediately, including a copy, where applicable, of any correspondence with any regulatory body about the condition;
  - viii. you will not, and will not allow any other person to, create or allow to exist, any condition on or with respect to the property that does or could constitute a violation of any law, regulation, by-law, order or other legally binding requirement relating to the protection of the environment, hazardous substances or public health and safety now and as such requirements come into force in the future;
  - ix. all information that you have provided to us concerning your marital status and whether the property is a matrimonial home within the meaning of the *Marital Property Act*, RSNB 2012, c 107, as amended or replaced from time to time, is true, complete and correct at the time the mortgage is signed and delivered;
  - x. all representations made by you in the loan agreement and in these standard charge terms are true, complete and correct at the time the mortgage is signed and delivered;
  - xi. you will, at your expense and at our request, whether before or after default, sign any other document or take any further action which we may, in our opinion, think necessary to ensure that your entire interest in the property has been fully charged to us and that the loan amount is adequately secured;
  - xii. if you default in any of your obligations under the mortgage, or any other default occurs, we will have the right to take possession of the property without any encumbrances or interference;
  - xiii. you will take any action necessary to protect your title to the property including, without limitation, protecting your rights under any applicable legislation of any municipal, provincial or federal government or regulatory body and you will not in any way interfere with our interest in the property;
  - xiv. you will not without our prior written consent further encumber the property and will keep the property free and clear of any Other Claims and any subsequent charges or mortgages;
  - xv. you agree that we may (but shall not be required to) pay the whole or any part of any Other Claims at any time having priority over the mortgage. The amounts so paid will be payable by you to us on demand and will, until paid, be included in the loan amount, be secured by the mortgage and bear interest at the actual mortgage rate. We will be entitled to the equities and the rights and securities of the person or persons so paid and to obtain an assignment of any Other Claims so paid and of any right to payment and

- we are authorized to retain any discharge of any Other Claims, without registration, until payment to us of the Other Claims in full; and
- xvi. we have the right to assign the mortgage and the payment of amounts secured by the mortgage, and any assignment by us will not cause the mortgage to cease to operate or entitle you to a discharge of the mortgage.

b) If you are a tenant or lessee of the property, you also agree with us that:

- i. the property is leased to you under a valid lease, a complete copy of which you have given to us and that you have good leasehold title to the property;
- ii. all rents and other monies payable under the lease have been paid and you have complied with all of your other obligations set out in the lease, in both cases up to the date you sign the mortgage;
- iii. you have the consent of your landlord or lessor or you have the right, without your landlord's or lessor's consent, to charge your interest in the lease to us;
- iv. there are no limitations on your interest in the lease or the property except for any set out in the lease, except for restrictions registered in the Land Titles Office and except for building and zoning by-laws, with which you and your landlord or lessor have complied;
- v. you will pay rents and other payments required by the lease as they fall due;
- vi. you will comply with all your other obligations set out in the lease;
- vii. you will not surrender the lease or cause it to be terminated or assign the lease or any of your rights under the lease or sublet all or any part of the property;
- viii. you will not make any change in the lease without first obtaining our written consent;
- ix. where the lease contains an option to renew the term of the lease or a right of first refusal to lease or purchase the property, you will not allow any such right or option to lapse at any time while there remains any outstanding loan amount without our prior written approval;
- x. you will promptly give us a copy of any notice, demand or request which you may receive relating to the lease;
- xi. you will, at your expense, sign any other document or take any further action as we may think necessary, in our opinion, to ensure that all your interest in the property and in the lease has been fully charged to us and that the loan amount is adequately secured;
- xii. you will indemnify us against all actions, claims, costs and demands should you default under your lease;
- xiii. you will hold the property for the last day of the term of your lease or of any renewal term of the lease in trust for us and will only deal with it in such manner as we will require. You will have the same rights arising from this subsection 10(b)(xiii) as you already have under other provisions of the mortgage and at law;
- xiv. at our request, but at your expense, you will transfer to us the last day of the term of the lease or of any renewal term. If we enforce our rights under the mortgage, particularly those referred to in subsection 24(a)(iv), then you will hold the last day of the term of the lease and of any renewal in trust for any person to whom we sell your interest in the property and for that person's successors;
- xv. you irrevocably appoint us as your attorney so that we, on your behalf and in your name, may enforce any of the covenants in your favour under the lease, exercise any right or option available to you under the lease (including any right of renewal or termination) or assign the lease and the last day of the term and of any renewal and convey your interest in the property as we may require to perfect any sale we may make under section 24 and, in particular, under subsection 24(a)(iv);
- xvi. we may remove you or any other person as trustee of the trust referred to in subsection 10(b)(xiv) and appoint a new trustee or trustees; and
- xvii. you acknowledge that any breach of a term of the lease constitutes a default under the mortgage, and you agree that we have the right (but not the obligation) at any time to pay any amount outstanding under the lease or take any action as may be necessary to bring the lease into good standing, and to add all amounts paid by us and all costs incurred by us to the loan amount secured by the mortgage.

## 11. DEMOLITION AND ALTERATIONS

You agree not to demolish the whole or any part of any building or structure on the property without first obtaining our written approval and not to make any substantial alterations, additions or improvements to the property without first obtaining our written approval to your proposed plans and specifications. In either case,

we may withhold our approval in our sole discretion.

The above work must be completed as quickly as possible and in accordance with all governmental requirements and building standards that apply to the property, at your expense, and upon our request you will provide us with proof of payment and compliance with governmental requirements and building standards. You must retain all required holdbacks. We may obtain an order vacating any construction lien and, if we think it necessary, provide financial guarantees or other security to obtain such order. All our expenses including, without limitation, any charges for providing financial guarantees or other security, are immediately payable by you to us and, if you do not pay them, we will add them to the loan amount and they will bear interest at the actual mortgage rate.

#### 12. INSURANCE (Section 12 does not apply if the property is a single residential condominium unit)

You must insure and keep insured in our favour until the mortgage is discharged, the property, including without limitation, all buildings, structures, fixtures and improvements now or in the future located on the property for not less than their full replacement value in Canadian dollars. The risks against which you must insure include loss or damage by or from fire with extended perils coverage and by and from such additional perils, risks or events as we may at any time require. If a steam boiler, pressure vessel, oil or gas burner, coal blower or sprinkler system or any other comparable apparatus is operated on the property, you must also insure and keep insured in our favour and until the mortgage has been discharged, against loss or damage by explosion of, or caused by, any such apparatus and against loss or damage caused by the sprinkler system.

All insurance policies must be provided by a company approved by us and contain mortgage clauses approved by the Insurance Bureau of Canada or by us confirming that loss proceeds are payable firstly to us, and that we will have the first right to receive and to have a lien on the loss proceeds. Upon our request, you will provide us with certified copies of every insurance policy and, not less than 15 days before any policy expires, evidence of its renewal.

We may, but are not required to, place and pay for any insurance policy if you fail to do so. Any premiums or sums of money which we pay for insurance will be immediately payable by you to us or added to the loan amount if not so paid and bear interest at the actual mortgage rate.

If any loss or damage occurs, you will immediately, at your expense, do everything necessary to enable us to obtain the insurance proceeds. The production of a copy of the mortgage will be sufficient authority for the insurance company to pay any loss to us or to accept instructions from us dealing with the loss and the insurance company is hereby directed to pay the same to us. Insurance proceeds may, at our option, in whole or in part be: (i) used to repair or rebuild the property; (ii) paid to you; and/or (iii) used to reduce any part of the loan amount, whether due or not including, without limitation, an amount to compensate us for loss of interest.

#### 13. PROPERTY TAXES

Before or on the interest adjustment date, we may withhold from any advance under the mortgage any amount we feel necessary to pay taxes then owing or to anticipate future payments of taxes.

You are responsible for the payment of all taxes on the property, which you will pay on or before the dates due. Promptly upon our request, you will provide us with all the receipted tax bills or a tax certificate confirming that all taxes are paid, failing which you will repay to us the cost of obtaining such receipts or tax certificate and if not paid we will add such cost to the loan amount.

In the alternative, and notwithstanding any other provisions of this section 13, we may, at our option and on written notice to you, estimate the amount of taxes payable for the property each year and you agree to pay to us sufficient monies by equal instalments (based on the payment frequency of the mortgage) to be applied on account of such taxes. You will pay the instalments to us on each payment due date during the term. We agree to apply these payments against your taxes as long as you are not in default under the mortgage, although we are not obligated to apply payments on account of your taxes more often than annually. We do have to hold any moneys which you send us under this section 13 in trust, nor pay interest on them. If you have paid us instalments towards taxes and if before we have been able to pay these taxes to the appropriate tax authority you have defaulted in the payment of principal or interest or the payment of any other monies to be paid by you under the mortgage, or have not complied with any of your other obligations under the mortgage, then we may, at our option, apply such sum or sums towards payment of the principal and/or interest or to the payment of any other monies to be paid by you which are in default. If the taxes actually charged for any one year, together with any interest and penalties, exceed the estimated amount, you agree to pay us promptly upon written notice from us the amount required to make up the difference. If you desire to take advantage of any discounts or avoid any penalties in connection with the payment of taxes, you may pay to us such additional amounts as are

required for that purpose. If we are paying your taxes, you agree to send to us the tax bills and other notices or communications relating to taxes immediately after you have received them, failing which you will repay to us the cost of obtaining such documentation and, if not paid, we will add such cost to the loan amount. If we advance to you additional principal amounts under the mortgage, we may deduct from any additional principal amount advanced the amount required to pay any outstanding taxes.

If you do not make your tax payments when they are due, then we may, but will not be obligated to, make those payments for you and the amounts paid by us: (i) will be a charge on the property in favour of us in priority to all claims subsequent to the mortgage; (ii) will be payable by you immediately with interest at the actual mortgage rate until paid; and (iii) may, at our option, be added to the loan amount.

#### 14. REPAIRS

You agree to keep the property in a good condition and state of repair and carry out all necessary repairs. You agree not to do, or let anyone else do, anything which lowers the value of the property. You will comply with every present and future statute, by-law, ordinance, regulation and order affecting the condition, repair, use or occupation of the property.

If, in our opinion, you do not keep the property in a good condition and state of repair or do, or allow anything to be done, which lowers its value or do not comply with any of your obligations under this section 14, then we can make whatever repairs are, in our opinion, necessary. The costs of any inspections and repairs are payable by you immediately and, if not paid, will be added to the loan amount and will bear interest at the actual mortgage rate.

You authorize us or anyone on our behalf to enter the property at all reasonable times to inspect and repair, but we will not become a mortgagee in possession by exercising these rights.

#### 15. NO OBLIGATION TO MAKE ADVANCES TO YOU UNDER THE MORTGAGE

If we decide, for any reason, not to advance to you all or any part of the principal amount or any additional principal amounts, we are not obligated to do so. This applies even if the mortgage has been signed and registered and whether or not any part of the principal amount has previously been advanced. However, by signing the mortgage you have charged all of your interest in the property to us and you will pay us, on demand, all of our costs including, without limitation, legal fees (on a solicitor and client basis), title insurance, expenses for investigating title or zoning compliance of the property and for preparing and registering the mortgage.

#### 16. LEASES AND RENTS

If the property is intended to be used as an owner-occupied single-family residential premises, you represent and agree that no part of the property is rented or occupied by a tenant and you also agree not to rent, lease or enter into a tenancy agreement or lease of the whole or any part of the property or renew any lease (other than a renewal provided for in any lease) without first obtaining our written approval which we may withhold in our sole discretion. You agree to keep us informed of the status of occupancy.

If the property is a rental property and we have consented to such rental, you hereby assign to us all leases, lease agreements and their renewals, whether presently existing or arising in the future; all rents payable under such leases and agreements; and all rights thereunder as they affect the property. You must obtain our prior written approval for any future leases of the property or for the renewal of any lease (other than a renewal provided for in any lease).

If in the future you decide to lease the whole or any part of the property to another person or persons, you must first obtain our written approval which we may withhold in our sole discretion. If we give our approval, upon our request you will:

- a) execute and deliver to us an assignment in registrable form acceptable to us of all leases, lease agreements and their renewals, rents payable under all such leases and lease agreements and all rights thereunder as they affect the property, which assignment may, at our option, include a provision for estoppel certificates from tenants or specific assignments of leases; and
- b) give us security on chattels, fixtures and equipment as we may reasonably require, and you agree to pay all of our expenses including, without limitation, legal fees, registration charges and other costs, relating to such additional security.

If you do not comply with any of your obligations or breach any of your representations under this section 16, at our option the loan amount will immediately become due and payable. In this case, we may pay to any tenant such amount as is required to obtain the co-operation of the tenant in showing and selling the property and obtaining possession from the tenant. You agree that the payment of such an amount will be a cost of

realization of our security and will be added to the loan amount and will bear interest at the actual mortgage rate. You hereby irrevocably appoint us as your attorney and agent to enforce the terms of any lease or agreement entered into by you and to cancel or terminate any lease or agreement.

Nothing we do under this section 16 will put us in possession of the property and we are not obliged to collect any rent or income from the property or to comply with any term of any lease or agreement.

#### 17. ACCELERATION OF REPAYMENT OF LOAN AMOUNT

The loan amount will immediately become payable, at our option, you shall forthwith pay the loan amount to us, and all of our rights and remedies pursuant to the mortgage or otherwise available at law shall become exercisable, upon the occurrence of any one or more of the following events of default (any one of which may be referred to in these standard charge terms as a “**default**”):

- a) you do not make any payment of principal, interest or other amount required to be made by you under the mortgage;
- b) you do not comply with any of your other obligations under the mortgage or the loan agreement, or you breach a covenant that you made in the loan agreement or the mortgage;
- c) we discover that any statement, certification, representation, warranty or agreement given or made to us by you or any guarantor in applying for the loan, in the loan agreement or in the mortgage (including, without limitation, any of those contained in section 10) is untrue, inaccurate, incomplete or misleading in any way;
- d) any construction lien, conditional sale agreement, notice of security interest, or other lien is registered on title to the property or any lien is created as a result of unpaid property taxes or (if the property is a condominium unit) unpaid common expenses;
- e) you default in the observance or performance of any obligation or condition contained in any mortgage, charge, lien or encumbrance to which our mortgage is subject or subordinate;
- f) any buildings being erected on or additions, alterations or improvements done to the property remain unfinished without work being done on them for a period of ten consecutive days;
- g) all or any part of the property is expropriated;
- h) the property is abandoned; or
- i) if there is any material adverse change in the value of the property or your financial status or that of any guarantor on which we relied in making any advances under the mortgage.

We have the right to waive or forgive any particular default by you but if we do so we are not waiving or forgiving any other existing default or one or more defaults, which may occur in the future.

#### 18. BUILDING MORTGAGE

If any of the principal amount to be advanced under the mortgage is used to finance an “**improvement**” (meaning any construction, erection or installation on the property or any alteration, addition or repair to or demolition or removal of all or any part of any building, structure or works on the property), you must first obtain our written approval of this before any advances are made under the mortgage. You agree to make the improvement only in accordance with plans and specifications which we have approved in advance in writing and to complete the improvement as quickly as possible.

Subject to section 15, we may make advances to you under the mortgage based on progress in completing the improvement or upon its completion or, in the case of a building, its occupation or sale. We will decide whether advances may be made and when they will be made.

Whatever the purpose of the mortgage, we may retain funds from any advance or advances until we are completely satisfied that the holdback provisions of the *Construction Remedies Act*, SNB 2020, c 29, as may be amended or replaced from time to time, or any other applicable construction lien legislation have been complied with. You authorize us to give information about the mortgage to anyone who claims a construction lien on the property.

#### 19. RELEASING YOUR LAND FROM THE MORTGAGE

At our option, we may release our interest under the mortgage in all or part of the property, whether or not we receive any value and we will be accountable to you only for money which we actually receive. If we release our interest under the mortgage in only a part of the property, the remainder of the property will continue to secure the loan amount and your obligations, and those of any guarantor, under the mortgage will continue unchanged. You will pay our then current administration or processing fee for preparing and signing the discharge and all legal and other expenses, whether the discharge is prepared by your lawyer, by ours or by us. It is your responsibility to register the discharge on title to the property and to pay the registration costs. If the property is subdivided, each part of the property will secure payment of the loan amount.

## 20. RENEWING OR AMENDING THE MORTGAGE

(This section is important to all persons having subsequent interests)

At our option, the mortgage may from time to time be renewed, extended or amended by an agreement (in form and substance acceptable to us) with you, with or without any increase in the interest rate or the principal amount. It will not be necessary for us to register the agreement (including any agreement increasing the principal amount or interest rate provided for in the mortgage) on title to the property in order to retain priority for the mortgage, as renewed or amended, over any other instrument registered after the mortgage whether or not there are any other instruments registered on title to the property after the mortgage at the time any agreement is entered into. However, we are entitled to make any registrations against title as we deem necessary and if requested, you will assist us with any registration we may make. The entering into of any agreement by us with any borrower and with any other person liable to pay the loan amount will not release or affect the liability of anyone who does not sign such agreement.

## 21. DUE ON SALE; CHANGE OF CONTROL

If you transfer title to the property to anyone or agree to do so, or if you change the effective voting control of any borrower which is a corporation or agree to do so, without first obtaining our written approval, the loan amount will, at our option, immediately become due and payable in full. Any payment which we accept from any person whom we have not first approved in writing will not mean that we have granted our prior written approval or that we have given up our right to require you to pay the loan amount in full.

You agree to give us sufficient information to enable us to decide whether we should give our written approval and upon receiving sufficient information, we will make our decision as soon as possible. We will not withhold our approval unreasonably.

You or the proposed purchaser, grantee or transferee shall execute and deliver to us an assumption agreement (in form and substance satisfactory to us and prepared at your expense) wherein such purchaser, grantee or transferee agrees to personally assume all of your obligations under the mortgage, and you or such purchaser, grantee or transferee shall provide us with a copy of the registered Transfer/Deed of Land to such purchaser, grantee or transferee together with a guarantee agreement(s) (if required by us); and if any of this is not done, then, at our option, the loan amount shall forthwith become due and payable.

No change of ownership of the property or any part thereof or other dealing by you with the property or any part thereof shall in any way change your liability or affect, alter or prejudice our rights against you or any other person liable for payment of the loan amount hereby secured.

## 22. CERTAIN ACTIONS WE CAN TAKE

If we think it is necessary, we can, but are not required to, pay any Other Claims that have priority over the mortgage. Also, we can pay all expenses which we incur in collecting any payment under the mortgage which you did not make when due and in enforcing your other obligations. You must immediately reimburse us for all such payments and expenses.

If you are a tenant or lessee under a lease of the property, we can, but are not required to, cure any defaults existing under your lease and you must immediately reimburse us for all payments and expenses which we incur in so doing.

If you do not comply with any of your obligations under the mortgage, we can, but are not required to, perform those obligations. Where you are a tenant or lessee of the property and you refuse or neglect to renew your lease when it gives you that right, we can do so and every renewal will be subject to the mortgage. You must immediately reimburse us for all payments that we have to make and costs which we incur in taking these steps.

Any payments we make under the mortgage and any expenses incurred by us (including, without limitation, our legal expenses) in collecting any payment under the mortgage that you did not make when due and in enforcing your other obligations in accordance with the mortgage, which are not immediately reimbursed to us will be added to the loan amount and such payments will be charged interest at the actual mortgage rate from the date we pay them. Any interest which accrues as a result of changes requested by you to the frequency of payments or to the regular payment date will be paid by you or added to the loan amount and charged interest at the actual mortgage rate.

If we have not received a solicitor's final title opinion and report within 90 days of the final advance of funds under the mortgage, we are entitled to retain another solicitor of our choice to provide such opinion at your expense.

### 23. ENVIRONMENTAL MATTERS

You agree that we or our agents (or agents of CMHC if this is a CMHC insured mortgage) may at any time before or after default and for any reason enter and inspect the property and conduct any environmental testing, site assessment, investigation or study which we or CMHC consider necessary. The reasonable cost of this testing, assessment, investigation or study, with interest at the actual mortgage rate chargeable under the mortgage, will be immediately payable by you and will be a charge on the property. None of us, CMHC, our agents and the agents of CMHC will become mortgagee in possession of the property or have management or control of the property by exercising these rights.

### 24. ENFORCING OUR RIGHTS

#### a) Remedies

If you do not make any payment when required under the mortgage (including without limitation payment of the loan amount if accelerated under section 17), or do not comply with any of your other obligations under the mortgage, or if a default (as defined in section 17) occurs under the mortgage, we may enforce any on or more of the remedies listed below in any order, separately or together to the extent that such remedies are available in the Province of New Brunswick.

Our remedies are:

- i. **Commence an Action** - We may take court proceedings or such other action as we deem necessary to collect the loan amount or obtain possession of the property.
- ii. **Foreclosure or Sale** - We may take court proceedings to foreclose your right, title and equity of redemption to the property. If we obtain a final order of foreclosure from the court, the property will become ours. We may also ask the court to order the sale of the property under its supervision. If the net amount we receive from the sale of the property is less than the loan amount, you must pay us the difference. We may also ask the court to order the sale of the property under its supervision. If the net amount we receive from the sale of the property is less than the loan amount, you must pay us the difference.
- iii. **Lease the Property** - If your default continues for 15 days, we may, on 15 days' notice to you, enter on and lease the property; if your default continues for 30 days we may, without notice to you, enter on and lease the property. We may apply the net proceeds of any lease to reduce any part of the loan amount. If the net proceeds of any lease are less than the loan amount, you must pay us the difference.
- iv. **Power of Sale** - If your default continues for 15 days we may, on at least 4 weeks' written notice to you, together with any other notice requirements, delivered in accordance with the *Property Act*, RSNB 1973, c P-19, as amended or replaced from time to time, enter on and sell the whole or any part of the property. Any sale can be for cash or on credit, or partly for cash and partly on credit, by private sale or public auction and on such terms as can be obtained. We may in our sole discretion cancel, amend or not complete any contract of sale without being responsible for any resulting loss. The net proceeds from any sale of the property will be applied to reduce the loan amount.
- v. **Enter on the Property** - We can enter on the property at any time without your permission and make any necessary arrangements to inspect, collect rents or manage the property or repair or complete construction of any building or other improvement on the property. Any costs we incur will be added to the loan amount and will bear interest at the actual mortgage rate.
- vi. **Appoint a Receiver** - We can appoint, in writing, a receiver (which includes a receiver and manager) to collect any income from the property. The receiver will be your agent, not ours, and you alone will be responsible for any of the receiver's acts or omissions. We are not accountable for any monies received by the receiver except to the extent that we actually receive any such monies. The receiver may use every remedy which we have under the mortgage to collect the income from the property, take possession of the whole or part of the property, manage the property and keep it in good condition. From the income collected, the receiver may pay all rents, taxes, rates, insurance premiums and other expenses required to keep the property in good condition, his own commission as receiver, all amounts required to keep any encumbrances ranking in priority to the mortgage in good standing, interest owing under the mortgage and all or any part of the loan amount whether or not it is due.
- vii. **Possession** - We can take possession of the property at any time, without permission, and take all necessary action to recover and keep possession of the property. We will

not be considered to be a mortgagee in possession unless we actually take possession of the property. We may lease or sell the property without actually entering into possession of the property but when we wish to take possession we may break locks and bolts and while in possession we will only be accountable for monies actually received by us.

- viii. **Distress** – Subject to applicable laws, we may distrain for payment of amounts owing under the mortgage, against the property or any part of it and all chattels situated thereon and recover by way of rent reserved as in the case of a demise of the property, the amounts in arrears and all costs and expenses incurred in such distress. You waive the right to claim exceptions and agree that we shall not be limited in the amount for which we may distrain.
- ix. **Cure any Defaults** – We can cure any defaults under the mortgage, at your expense, and generally take any other steps or proceedings against you as permitted by the laws of New Brunswick and of Canada.
- x. **Assignment of Rents** – You assign to us all rents from the property. This assignment will take effect upon a default under the mortgage.

b) Notice

Notice of sale shall be given to such persons and in such manner and form as required by law; provided that in the event that the giving of such notice of sale shall not be required by law or to the extent that any notice requirements shall not be applicable, notice may be effectually given by leaving it with a person on the property, if occupied, or by placing the same on some portion thereof, if unoccupied, or at our option, by mailing it by registered mail addressed to you at your last known address, or by publishing it once in a newspaper published in the area or region in which the property is situated.

c) Proceeds of Sale or Lease

The proceeds of any sale or lease shall be applied firstly in payment of any costs (including legal fees on a solicitor and his or her own client basis), expenses, commissions and fees which may be incurred in taking, recovering, keeping possession of, maintaining and preserving the property or in making any sale of lease of the property (as the case may be), the amount of Other Claims as we are required to pay or deem necessary to be paid, charges, mortgages or encumbrances ranking in priority to this mortgage, leases and conveyances as aforesaid or by reason of non-payment or procuring payment of any amounts owing under the mortgage (including sums which we have paid for taxes, insurance, repairs, maintenance, utilities, common expenses and other amounts added thereto or payable by you to the condominium corporation if the property is or includes a condominium unit); and thereafter to reduce the loan amount in the manner determined by us in our sole discretion and, for greater certainty, you shall continue to be liable for and shall pay to us any portion of the loan amount which then remains unpaid.

d) No Interference

If, in enforcing any of our remedies, we take possession of the property, neither you nor any person claiming an interest in the property through you will interfere with our possession, with the possession of any receiver we may appoint or with the possession of any person to whom the property is leased or sold and you will not make any claim against any person to whom the property may be leased or sold.

e) Our Expenses

You agree to pay immediately upon our request all of the expenses which we incur in collecting any payment under the mortgage that you did not make when due, in enforcing your other obligations in accordance with the mortgage, and in enforcing any of our remedies. These expenses include our legal fees on a solicitor and client basis and disbursements, all other costs we have to pay to protect our interests and to enforce any of our remedies under the mortgage and a reasonable allowance for the time and services of our employees. Any such expenses which are not immediately reimbursed to us will be added to the loan amount and will be charged interest at the rate specified in the registered document from the date we pay them.

f) Delay in Enforcement

Our rights will not be affected if we delay in enforcing any of our rights under the mortgage or give you or anybody else an extension of time. We may still insist that you make all payments on time and comply with your obligations, require payment of the loan amount if you are in default and require any other person including, without limitation, a guarantor, who has obligations to us under the mortgage to meet those obligations. If you do not make any payment of the principal amount as required by the



mortgage, we are not obliged to accept subsequent payments unless you also give us interest to the date of subsequent payment.

g) Judgments

If we obtain any court order or judgment against you in any action to enforce our remedies, the judgment will not operate as a merger of any covenant of the mortgage and will not prevent us from pursuing our other remedies or rights to enforce your other obligations under the mortgage. Until the loan amount is paid in full, interest is payable on the loan amount in accordance with the mortgage.

h) No Prejudice from Failure to Enforce Our Rights

A failure by us to enforce at any time or from time to time any of our rights under the mortgage will not prejudice our rights or any other rights that we have under the mortgage or at law. No performance or payment by us in respect of any breach or default by you under the mortgage will relieve you from any default under the mortgage, and no waiver at any time or from time to time of any such rights by us will prejudice such rights in the event of any future default or breach.

## 25. CONDOMINIUM

If the property is a condominium unit, you agree to comply with the provisions of this section 25 in addition to the other provisions of the mortgage other than section 12.

The corporation created by the registration of a declaration under the *Condominium Property Act*, SNB 2009, c C-16.05 (as amended or replaced from time to time) is called the “**condominium corporation**”.

a) Compliance with the *Condominium Property Act*

You will comply with the *Condominium Property Act* and with the declaration, by-laws and rules and regulations of the condominium corporation as they exist from time to time.

b) Payment of Common Expenses and Other Costs

You will pay all amounts required by the *Condominium Property Act*, and by the declaration and the by-laws of the condominium corporation on or before the date they are due and, if we request, give us proof that you have done so. You must pay common expenses, contributions, levies or assessments. If you do not make any payments which you are obligated to pay, we may (but are not obligated to) do so on your behalf and add such amounts to the loan amount and such amounts will bear interest at the actual mortgage rate and you will be in default under the mortgage.

c) Notices and Demands

You will mail to us by prepaid registered mail, or deliver to us, copies of every notice, assessment, claim or demand for payment, rule or regulation, request or demand of us to consent to any matter and every other communication relating to your unit or the common elements of the condominium corporation so that we receive them at least five days before any claim or demand is payable or, in the case of other communications, within five days of the date you receive them.

d) Voting Rights

You irrevocably authorize us, in your name and on your behalf, and whether or not you are in default, to exercise your rights under the *Condominium Property Act* and under the declaration and by-laws of the condominium corporation to vote at any meeting of the condominium corporation and to consent to any matter relevant to the management, sale or other dealings with the property or assets of the condominium corporation or the termination of the application of the *Condominium Property Act* to the condominium corporation

We may wish not to use our rights to vote or consent and if we do not wish to do so, we may notify the condominium corporation, in which case you can vote or consent. Our wish not to vote or consent can be for a limited period of time or for a particular meeting or matter. When we do vote or consent for you, we do not then become a mortgagee in possession and are not responsible to protect your interests nor for the way we vote or consent or fail to do so.

e) Acceleration of Repayment of Loan Amount

At our option, the loan amount will become payable immediately if:

- i. government of the property of the condominium corporation under the *Condominium Property Act* is terminated;

- ii. a vote of the unit owners authorizes the sale of the property of the condominium corporation or of a part of its common elements;
- iii. the condominium corporation fails to comply with the *Condominium Property Act*, declaration, by-laws or rules and regulations;
- iv. the condominium corporation fails, in our opinion, to manage the condominium property and assets in a careful way or to maintain its assets in good repair;
- v. the condominium corporation fails to insure all the condominium units and common elements according to law and any additional requirements we may have, or fails to insure the units and common elements against destruction or damage by fire and other perils usually insured against for full replacement cost, or fails to do all that is necessary to collect insurance proceeds;
- vi. the condominium corporation makes any substantial modification to the common elements or the corporation's assets without our approval; or
- vii. there has been substantial damage to the property of the condominium corporation and the owners have voted for termination of the condominium corporation.

Our rights to cause the loan amount to become payable immediately will not be affected by the fact that we may have voted in favour of or consented to any of the foregoing.

f) Insurance

If the property is a single residential condominium unit, you must insure and keep insured in our favour and until the mortgage is discharged, the property, including, without limitation, all buildings, structures, fixtures and improvements now or in the future located on the property not required to be insured by the condominium corporation as determined by the *Condominium Property Act* or the declaration of the condominium corporation on the property for not less than their full replacement value in Canadian dollars.

Under the *Condominium Property Act*, the condominium corporation must obtain appropriate insurance. In addition, you must insure against loss or damage by fire with extended perils coverage and against such additional risks as we may at any time require all improvements or those improvements required by the *Condominium Property Act* or by-laws of the condominium corporation which at any time have been made to the property.

All insurance policies must be provided by a company approved by us and contain mortgage clauses approved by the Insurance Bureau of Canada or by us confirming that loss proceeds are payable firstly to us, and we will have the first right to receive and to have a lien on the loss proceeds. Upon our request, you will provide us with certified copies of every insurance policy and, not less than 15 days before any policy expires, evidence of its renewal.

We may, but are not required to, place and pay for any insurance policy if you fail to do so. Any premiums or sums of money which we pay for insurance will be immediately payable by you to us or added to the loan amount if not so paid and bear interest at the actual mortgage rate.

If any loss or damage occurs, you will immediately, at your expense, do everything necessary to enable us to obtain the insurance proceeds. The production of the mortgage will be sufficient authority for the insurance company to pay any loss to us or to accept instructions from us dealing with the loss and the insurance company is hereby directed to pay the same to us. Insurance proceeds may, at our option, in whole or in part be: (i) used to repair or rebuild the property; (ii) paid to you; and/or (iii) used to reduce any part of the loan amount, whether due or not including, without limitation, an amount to compensate us for loss of interest.

You will, and to the extent it is within your control will cause the condominium corporation to, assign and transfer the policy or policies of insurance and receipts thereof to us and if you or the condominium corporation fails to keep the buildings and improvements insured or provide us at least 15 days before the termination of any insurance, evidence of renewal, we are entitled but not obligated to insure the buildings or improvements.

The obligation to insure may be performed by the condominium corporation and the proceeds of insurance may be payable in accordance with the declaration and by-laws of the condominium corporation. You promise that, in the event of loss or damage, you will fully comply with the terms of all insurance policies and with the insurance provisions of the declaration and by-laws and that, as a member of the condominium corporation, you will insist that the condominium corporation fully complies with these terms.

## 26. INSPECTION

If we, CMHC (if this is a CMHC insured mortgage), or our respective agents have reason to believe that the property is not in conformity with any federal, provincial or municipal law or regulation respecting the environment, you agree that we, CMHC or our respective agents may, at any time, before or after default, enter and inspect the property and conduct any environmental testing, site assessment, investigation or study which we or CMHC consider necessary. The reasonable cost of this testing, assessment, investigation or study, with interest at the actual mortgage rate, will be immediately payable by you and shall be a charge on the property. Neither we, CMHC nor our respective agents will become a mortgagee in possession, management or control by exercising these rights.

## 27. EXPROPRIATION

If the entire property is expropriated, the loan amount will immediately become due and payable together with loss of interest.

If only a part of the property is expropriated, the amount you are awarded for the partial expropriation will be paid to us and we will credit it to the loan amount. If, in our opinion, the remainder of the property does not constitute adequate security for the loan amount, then, at our option, all of the loan amount, or such part of the loan amount as we determine in our sole discretion, will immediately become due and payable together with loss of interest.

We have the right to order a survey and/or property valuation of the property in order to ascertain the value of the expropriated land and the remaining land. Any and all reasonable costs, charges and expenses for such survey and/or property valuation will be added to the loan amount and will bear interest at the actual mortgage rate, and will be a charge on the property under the security of the mortgage.

## 28. GUARANTEE

In consideration for us making a loan to the borrower (which in the mortgage includes the borrower's successors and assigns), each person who signs the mortgage as guarantor covenants and agrees with us, as principal debtor and not as surety, to pay to us the loan amount as and when, and in the manner, required by the mortgage and to observe and perform all other obligations of the borrower under the mortgage at the times and in the manner provided in the mortgage. Each guarantor, if there is more than one, will be jointly and severally liable with the borrower and with each other for complying with all obligations under the mortgage.

We may at any time and from time to time without the consent of or notice to any guarantor give any extension of time for payment (including renewals), deal with the mortgage or any other security we may hold (including, without limitation, releasing, realizing on or replacing any security), deal with the property, give releases or discharges, vary, increase or decrease the interest rate, amend the terms of the mortgage and generally deal with all matters affecting the mortgage and the obligations of the borrower either before or after requiring payment from any person without in any way affecting the guarantee or the obligations of any guarantor. We may require payment from any guarantor before we attempt to obtain a payment from the borrower, and all obligations of any guarantor will also be those of the guarantor's successors and will not be altered by the bankruptcy of the borrower or any guarantor. Each guarantor agrees that the guarantor has read the mortgage and is fully aware of its terms and in particular the terms of this section 28.

## 29. RESERVATION OF RIGHTS

You understand that any material change in the conditions of the mortgage such as an extension of time for payment or change in the interest rate, will not lessen the obligations of any person who does not join in such amending agreement.

## 30. DISCHARGE OF MORTGAGE

Upon maturity or early full payment of this mortgage, a discharge or assignment, if requested by you, will only be delivered upon full payment being received by us in accordance with our latest issued and current discharge statement. For purposes of calculating per diem interest on a discharge, funds received after 3:00 p.m. on any business day shall be deemed to have been received on the next following business day. We further reserve the right to refuse a discharge or transfer of the mortgage until any charges or returned cheque amounts arising after the discharge statement is issued are also fully paid to us.

You will pay our then current administration or processing fee for preparing and signing the discharge or assignment and all legal and other expenses, whether the discharge or assignment is prepared by your lawyer, by ours or by us. It is your responsibility to register the discharge or assignment on title to the property and to pay the registration fee. If electronic registration is available for the mortgage, we may register the discharge on your behalf and will provide either you or your solicitor (as applicable) with confirmation of registration.

### 31. FEES

You agree to pay us, when due, our then current administration and processing fees in connection with the preparation of any assumption statement, discharges, amending or other agreement, statements for information purposes, any fees referred to in subsection 6(e), replacement of cheques where payment has been refused due to insufficient funds or for any other reason in respect of the administration of the mortgage. You agree that we may add such fees, if unpaid, to the loan amount, which unpaid fees will be charged interest at the actual mortgage rate.

The amount of such fees in effect at any time is available by contacting us at the telephone number set out in the loan agreement, or such other telephone number as we may advise you of from time to time.

### 32. MARITAL PROPERTY ACT

You certify to us that all information which you gave us about your marital status and the property when applying for the loan secured by the mortgage, and the statements made herein and in the registered document were and are completely truthful and accurate under the *Marital Property Act*, RSNB 2012, c 107, as amended or replaced from time to time.

### 33. DOCTRINE OF CONSOLIDATION

The doctrine of consolidation will apply to the mortgage and any other mortgage you have granted or will grant to us. This means that if you default under any of your mortgages to us then we can, as a condition of your repaying any mortgage, require that you repay all mortgages.

### 34. DATE OF MORTGAGE

You agree that, only for the purpose of defining the date of the mortgage with respect to any statutory right of prepayment, and subject to the provisions of section 9, the date of the mortgage will be deemed to be the interest adjustment date set out in the mortgage, regardless of the date of signature that appears in the registered document.

### 35. NEW BRUNSWICK CONSTRUCTION REMEDIES ACT

If the *Construction Remedies Act*, SNB 2020, c 29, as amended or replaced from time to time, applies to the property, you agree to comply with its requirements and to reimburse us for any costs which we incur in complying or enforcing your rights on your behalf if you fail to do so.

### 36. WHO IS BOUND; INTERPRETATION

Every reference in this document to a party hereto shall extend to and include the successors and assigns of such party. The mortgage shall enure to the benefit of and be binding upon the successors and assigns of the parties hereto. If more than one person signs the mortgage as borrower, then all persons who sign as borrower are jointly and severally liable to comply with all obligations under the mortgage. If any borrower or guarantor is female or a corporation, then the mortgage will be read with all necessary grammatical changes. Words in the singular include the plural and words in the plural include the singular.

### 37. PARTIAL INVALIDITY

If any provision of the mortgage is found to be illegal or unenforceable, the validity or enforceability of all other provisions will not be affected.

### 38. SECTION HEADINGS

Headings in the mortgage do not form part of the mortgage but are used only for easy reference.

### 39. NATIONAL HOUSING ACT

All CMHC insured mortgages are made pursuant to the *National Housing Act* (Canada), R.S.C. 1985 c. N-8, as amended or replaced from time to time, and the regulations thereunder, as amended or replaced from time to time. If there is any conflict between any provision of the mortgage and any requirement of the said *National Housing Act* (Canada) or any regulations thereunder, any latter requirement shall govern.

### 40. GOVERNING LAW

These standard charge terms and the mortgage will be governed by the laws of the Province of New Brunswick.

### 41. MAKING MATERIAL CHANGE

Any agreement to make material changes to the mortgage terms and conditions including, without limitation, any extension of the time for payments, changes in the interest rate or renewals or extensions of the mortgage term will apply not only to those who agree to the changes in writing but also to any person, including any guarantor, who signed the original mortgage agreement but did not agree to the changes in writing.



42. ELECTRONIC REGISTRATION

The delivery of the registered document for registration by direct electronic transfer shall have the same effect for all purposes as if the registered document were in written form, signed by the parties thereto and delivered to us. Each borrower and, if applicable, the spouse of each borrower and any other party to the mortgage agrees not to raise in any proceeding by the lender to enforce the mortgage any want or lack of authority on the part of the person delivering the registered document for registration to do so.

Schedule F attached hereto forms part of the statutory covenants and conditions.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ICICI Bank Canada

Per: \_\_\_\_\_

## **SCHEDULE F**

In consideration of the granting of the loan (the "Loan") secured by the mortgage/charge and of its conditions (the "Mortgage") to which this schedule is attached (this "Schedule"), the party listed as the chargee on the Mortgage (the "Lender") agrees with the party listed as the chargor on the Mortgage (the "Borrower") as follows:

This Schedule F contains: important terms in Section A which apply to all loans; additional terms in Section B that applies to Loans with Fixed Rate of Interest; additional terms in Section C that applies to Loans with Floating Rate of Interest and additional important terms in Section D that apply where the Borrower is a corporate entity. In the event of a conflict between the terms contained in Section A, B, C and D, the Lender shall determine in its sole discretion which provisions shall prevail

### **SECTION A**

#### **TERMS FOR ALL LOANS**

The terms contained in this Section A shall apply to all Loans, irrespective of whether the other Sections in this Schedule apply.

##### **1. EFFECT ON STANDARD TERMS:**

The provisions of this Schedule are incorporated into and form part of the Mortgage. To the extent the provisions of this Schedule are inconsistent with the Standard Charge Terms or Standard Mortgage Terms, as applicable, used by the Lender in the Province where the land subject to the Mortgage (the "Mortgaged Property") is located, this Schedule amends those terms. In the event of any conflict between the provisions of this Schedule and any provision of the Loan Documents (defined below), the Lender shall determine in its sole discretion which provisions shall prevail. All terms and conditions of the Mortgage, as varied by this Schedule, remain in full force and effect, except as amended by this Schedule.

##### **2. CAPITALIZED TERMS and DEFINITIONS:**

The Standard Charge Terms, the Standard Mortgage Terms, the Commitment Letter and all other documents executed by the Borrower or the Guarantor in favour of the Lender with respect to the Loan are herein referred to as the "Loan Documents".

All capitalized terms utilized in this Schedule, but not otherwise defined in this Schedule, shall have the respective meanings ascribed to such terms in the Standard Charge Terms or Standard Mortgage Terms, as applicable.

##### **3. PAYMENTS AFTER THE CLOSING DATE:**

The Borrower will make regular payments of principal and interest at the interest rate, calculated and compounded in accordance with the Mortgage and this Schedule. Instalments of principal and interest will be made on the first payment date and will continue until the last payment date set out in the Mortgage. After each change in the interest rate, and within the time period required by law, the Lender may mail to the Borrower, at his or her last known address according to the Lender's records, a notice of the changed instalments owing under the Mortgage.

##### **4. RENEWALS:**

- (a) Subject to the Conversion Option available to Borrower's with a Floating Rate loans, early renewals of the Loan may be allowed at the sole discretion of the Lender. Any early renewal with six (6) months or more remaining on the Loan term shall be deemed as a prepayment and shall be subject to the payment requested for any prepayment that is not a privilege payment.
- (b) Provided there has been no default under any of the Loan Documents, the Lender may send an offer of renewal to the Borrower prior to the end of the then current Loan term with a listing of the renewal options.

If the Borrower does not respond to the offer of renewal by the end of the then current Loan term, the Lender may automatically renew the Loan for an additional one (1) year fixed term at the posted rate, and if the Lender does so, it shall send notice to the Borrower of the renewal and the new payment terms.

#### 5. CHARGES ON DEFAULT:

Where the Loan is not repaid at maturity or payments are not made when due, the following charges may be imposed:

- (a) interest on overdue principal and interest, at the interest rate in effect;
- (b) legal costs to collect or attempt to collect a payment;
- (c) costs, including legal fees, that the Lender incurs or that someone incurs on the Borrower's behalf, except fees paid to the Lender's employees, in protecting or realizing on the Mortgage; and
- (d) an administration fee to process a cheque or pre-authorized debit that was dishonoured.

#### 6. INSPECTION:

This clause is in addition to any inspection rights granted to the Lender pursuant to any of the Loan Documents. The Lender or any of its agents (including an agent of Canada Mortgage and Housing Corporation ("CMHC"), if the Mortgage is insured under the *National Housing Act*), may, at any time, before and after default, and for any purpose deemed necessary by the Lender or its agents, enter upon the Mortgaged Property to inspect the lands and buildings on the Mortgaged Property. Without in any way limiting the generality of the above, the Lender or its agents may enter upon the Mortgaged Property to conduct any environment testing, site assessment, investigation or study deemed necessary by the Lender or its agents and the reasonable cost of such testing, assessment, investigation or study, as the case may be, with interest at the interest rate of the Loan, shall be immediately payable by the Borrower and shall be a mortgage upon the Mortgaged Property. The exercise of any of the powers set out in this clause shall not deem the Lender or its agents to be in possession, management or control of any of the Mortgaged Property.

If this Mortgage is insured with CMHC, or insured by any other third-party provider of similar insurance, it has been made pursuant to the *National Housing Act*.

#### 7. MORTGAGE RANKING PRIORITY:

If the Mortgage is not a first-ranking mortgage, then the Borrower agrees not to increase the principal amount of any mortgages prior to the Lender without the Lender's express written approval.

#### 8. COMMUNICATION:

All communications to the Borrower, including any notice, demand, request or other document so given or delivered, shall be addressed to the Borrower, to the address as set out in the commitment letter between the Lender, Borrower and Guarantor(s) in connection with the Mortgage

#### 9. RENT and LEASES

Where the Borrower is a natural person (i.e. not a corporation, limited liability company, trust or otherwise), unless the Mortgaged Property has been approved by the Lender for investment purposes (rentals), the Borrower must occupy the Mortgaged Property on a full time basis until the balance due date as set out in the Mortgage. If at any time the Mortgaged Property is not occupied by the Borrower as required, the Lender may declare this Mortgage in default and exercise all remedies available to it in the case of default.

## **Section B**

### **Additional Terms Applicable to Fixed Rate Loans**

Where the Borrower and the Lender have selected and agreed to a fixed rate of interest in the commitment letter between the Lender, Borrower and Guarantor(s) in connection with the Mortgage the following terms contained in this Section B shall also apply:

#### 10. FIXED RATE – INTEREST RATE:

The interest payable by the Borrower under the Mortgage is a fixed rate specified on the charge / mortgage which will initially be determined on the Interest Adjustment Date and such rate is payable per annum calculated yearly not in advance both before and after maturity, default or judgment together with interest on overdue interest at the same rate.

#### 11. FIXED RATE - PREPAYMENTS:

(a) Prepayment Privileges: The Borrower shall have the following additional privileges for payment of extra amounts on account of principal of the Loan:

- (i) provided there is no default, the Borrower has the privilege of prepaying partial amounts of principal, with no penalty interest, on any payment date. Such partial payments must each be in a minimum amount of one hundred dollars (\$100.00), and total no more than twenty percent (20%) of the original principal amount of the Loan, during the twelve (12) month period following the interest adjustment date or each anniversary date. This penalty interest free privilege cannot be carried over from previous years. The privilege of prepaying is not available if, at the time of the prepayment: (i) there is a default under any of the Loan Documents; or (ii) if the Lender has delivered a payoff statement to the Borrower showing the amount required to prepay the Loan in full and such payoff statement has not expired or been cancelled.
- (ii) in addition, provided there is no default, the Borrower has the privilege of increasing the regular payment amount to a maximum of twenty percent (20%) of the current principal and interest payment. This option is available once per mortgage year.

None of the above prepayment privileges are cumulative.

(b) Prepayment Costs: On any regular payment date up to the fifth (5<sup>th</sup>) anniversary of the interest adjustment date, the Borrower shall have the privilege to prepay the whole or any part of the principal amount of the Loan then outstanding on payment of an amount equal to the greater of:

- (i) three months interest at the rate set out in the Mortgage on the amount prepaid; or
- (ii) the amount, if any, by which interest at the rate set out in the Mortgage exceeds interest at the then prevailing interest rate, calculated on the amount prepaid, for a term commencing on the date of prepayment and expiring on the maturity date of the Loan.

## **Section C**

### **Additional Terms Applicable to Floating Rate Loans**

Where the Borrower and the Lender have selected and agreed to a floating rate of interest in the commitment letter between the Lender, Borrower and Guarantor(s) in connection with the Mortgage the following terms contained in this Section C shall also apply:

#### 12. FLOATING RATE - INTEREST RATE:

The interest payable by the Borrower under the Mortgage is a variable rate which will initially be determined on the Interest Adjustment Date and will automatically be adjusted as ICICI Bank Prime Rate changes (every day on which an adjustment is made is referred to in this Schedule as an "Adjustment Date"). On each Adjustment Date, the interest rate payable will equal the ICICI Bank Prime Rate less/plus the appropriate



discount/premium for the applicable period associated with the mortgage product selected. The interest rate will change on each Adjustment Date to reflect changes in interest rate. The Lender may mail to the Borrower, at his or her last known address according to the Lender's records, a notice of the changed interest rate and its effective date. The interest rate will vary in accordance with this paragraph even if the Borrower fails to receive it. ICICI Bank Prime Rate is published on [www.icicibank.ca](http://www.icicibank.ca) for reference.

#### 13. FLOATING RATE - PREPAYMENTS:

- (a) Prepayment Privileges: The Borrower shall have the following additional privileges for payment of extra amounts on account of principal of the Loan:
- (i) provided there is no default, the Borrower has the privilege of prepaying partial amounts of principal, with no penalty interest, on any payment date. Such partial payments must each be in a minimum amount of one hundred dollars (\$100.00), and total no more than twenty percent (20%) of the original principal amount of the Loan, during the twelve (12) month period following the Interest Adjustment Date or each anniversary date. This penalty interest free privilege cannot be carried over from previous years. The privilege of prepaying is not available if, at the time of the prepayment: (1) there is a default under any of the Loan Documents; or (2) if the Lender has delivered a payoff statement to the Borrower showing the amount required to prepay the Loan in full and such payoff statement has not expired or been cancelled.
  - (ii) in addition, provided there is no default, the Borrower has the privilege of increasing the regular payment amount to a maximum of twenty percent (20%) of the current principal and interest payment. This option is available once per mortgage year.

None of the above prepayment privileges are cumulative.

- (b) Prepayment Costs: The Borrower will be charged a penalty if it pays more of the Loan than the prepayment privilege allows. If the Borrower wants to pay out all or part of the Loan before the end of the Loan term, the Borrower will also pay a penalty. The penalty will be three (3) months interest at the rate applicable at the time of prepayment.

#### 14. FLOATING RATE - CONVERSION OPTION:

If there is no default, the Borrower can convert the Loan to a closed fixed rate term loan, at no cost, on the condition that the new term plus the time elapsed on the Loan term is equal to or greater than the original Loan term and provided there is no default under any of the Loan Documents. On conversion, the Borrower will select from the mortgage options and programs offered at the time of conversion.

Upon conversion to a term loan, all the features and benefits of the variable loan are rescinded and the Borrower adopts the features and benefits of the term loan.

### **Section D**

#### **Additional Terms applicable to Loans where Borrower is a corporation**

If the Borrower is a corporation, the additional terms and conditions contained in this Section D shall also apply to the Loan:

#### 15. PERMITTED INDEBTEDNESS:

The Borrower may avail itself of credit facilities to acquire other immoveable assets, which acquisition credit facility shall not exceed eighty percent (80%) of the purchase price of the immoveable asset being purchased and which credit facilities' security does not include the Mortgaged Property ("Permitted Indebtedness"). For greater certainty, the Borrower may refinance Permitted Indebtedness credit facilities from time to time.

#### 16. PERMITTED SECURITY INTEREST:

The Borrower may create security interest over any asset other than the Mortgaged Property, for the purpose of availing Permitted Indebtedness ("Permitted Security Interest").

## 17. EVENTS OF DEFAULT:

Without limiting the events of default in the Loan Documents, the following events of default entitle the Lender to exercise any of its remedies under the Loan Documents, including, without limitation, the right to require the Borrower to immediately pay the entire amount of principal and accrued interest then outstanding together with all fees, costs and expenses:

- (a) any representation, warranty or certification made in this Schedule, the Loan Documents, or any certificate, report, financial statement, or other item furnished to the Lender, in connection with the Mortgage, shall prove to have been false or misleading in any material respect as of the time made or furnished; or
- (b) any breach of a covenant by the Borrower(s) or Guarantor(s) made in this Schedule, the Loan Documents, or any certificate, report, financial statement, or other item furnished to the Lender, in connection with the Mortgage; or
- (c) any direct or indirect interest in the Borrower is sold, assigned, transferred, conveyed or otherwise disposed of by the Borrower or the party entitled to do so, or is the subject of any attempted sale, assignment, transfer or conveyance without written consent of the Lender whether directly or indirectly, including without limitation, any purported transfers of partnership or limited partnership interests; or
- (d) the Borrower or any of the Guarantor(s):
  - (i) institutes proceedings for substantive relief in any bankruptcy, insolvency, debt restructuring, reorganization, readjustment of debt, dissolution, liquidation, winding-up or other similar proceedings (including proceedings under the *Bankruptcy and Insolvency Act* (Canada), the *Winding-up and Restructuring Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), the incorporating statute of the relevant corporation or other similar legislation), including proceedings for the appointment of a trustee, interim receiver, receiver, receiver and manager, administrative receiver, custodian, liquidator, provisional liquidator, administrator, sequestrator or other like official with respect to the relevant corporation or all or any material part of its property or assets; or
  - (ii) makes an assignment for the benefit of its creditors; or
  - (iii) is unable, or admits in writing its inability, to pay its debts as they become due or otherwise acknowledges its insolvency or commits any other act of bankruptcy or is taken to be insolvent under any applicable legislation; or
  - (iv) is terminated, dissolved or liquidated; or
  - (v) acquiesces to, or takes any action in furtherance of, any of the foregoing; or
- (e) any of the Guarantor(s):
  - (i) terminates or revokes the Guarantee; or
  - (ii) dies; or
- (f) if any third party in respect of the Borrower or any of the Guarantor(s):
  - (i) makes any application under the *Companies' Creditors Arrangement Act* (Canada) or similar legislation; or
  - (ii) files a proposal or notice of intention to file a proposal under the *Bankruptcy and Insolvency Act* (Canada) or similar legislation; or
  - (iii) institutes a winding-up proceeding under the *Winding-up and Restructuring Act* (Canada), any relevant incorporating statute or any similar legislation; or
  - (iv) presents a petition in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) or any similar legislation; or
  - (v) files, institutes or commences any other petition, proceeding or case under any other bankruptcy, insolvency, debt restructuring, reorganization, incorporation, readjustment of debt, dissolution, liquidation, winding-up or similar law now or in the future in effect, seeking bankruptcy, liquidation, reorganization, dissolution, winding-up, composition or readjustment of debt of any of them, the appointment of a trustee, interim receiver, receiver, receiver and manager, administrative receiver, custodian, liquidator, provisional liquidator, administrator, sequestrator

or other like official for any of them, or any material part of any of their respective assets or any similar relief;

and if the application, filing, proceeding, petition or case is not dismissed, stayed or withdrawn within thirty (30) days of commencement of said application, filing, proceeding, petition or case.

#### 18. PERSONAL GUARANTEE:

All shareholders of the Borrower shall provide the Lender with a personal guarantee covering all amounts payable in relation to the Loan (the "Guarantee") and are each listed as guarantor on the Mortgage (the "Guarantor(s)").

#### 19. REPRESENTATIONS AND WARRANTIES:

The representations, warranties and covenants contained in this Schedule shall be in addition to, and not in substitution for any representation, warranty or covenant of any party in any of the Loan Documents.

(a) The Borrower represents and warrants that:

(i) the Borrower is:

1. the legal and beneficial owner of the Mortgaged Property and holds the Mortgaged Property on its own account and not for any other person or entity;
2. duly incorporated or otherwise formed, organized and validly existing under the laws of its jurisdictions of incorporation, formation or organization;
3. up to date in all of its corporate filings, including those required under its constating statute(s);
4. duly qualified to conduct business in all jurisdictions in which its business is conducted;
5. only carrying on business under the legal names, trade names, and/or styles, disclosed to the Lender;
6. in compliance with all statutes, laws, rules, regulations, ordinances, orders and directives applicable to the Borrower and the conduct of its business, including tax laws and environmental laws; and
7. not a non-resident of Canada for the purposes of Section 116 of the *Income Tax Act* (Canada);

(ii) the execution, delivery and performance of all obligations of the Borrower under the Loan Documents, are within the Borrower's powers, have been duly authorized and are not in conflict with the Borrower's organizational documents or bylaws, nor shall they constitute an event of default under any agreement by which the Borrower is bound or violate any writ, judgment, injunction, determination or award which is binding on the Borrower;

(iii) the Loan Documents constitute valid and binding obligations of the Borrower, enforceable in accordance with their terms;

(iv) the Borrower's sole business purpose is to own and rent residential properties (the "Business Purpose") and the Borrower has not previously, and is not currently, engaged in any business activity that is not directly connected to the Business Purpose; and

(v) there is no debt that is either superior, equal to, or subordinate to this Mortgage financing other than as disclosed in advance to the Lender and approved by the Lender in writing.

(b) Each of the Borrower and Guarantor(s) represents and warrants that:

(i) there is no action, suit, litigation, tax claim, arbitration, proceeding, dispute, or investigation pending, initiated, threatened or affecting the Borrower and/or Guarantor(s), except as disclosed in writing to the Lender prior to the date of the registration of the Mortgage, which would have a material adverse effect upon the Borrower and/or Guarantor(s), or their ability to perform the obligations under the Loan Documents;

(ii) the execution and delivery by the Borrower and Guarantor(s) of, and performance by the Borrower and Guarantor(s) of all obligations under, the Loan Documents, are not in conflict with

any statute, law, rule, regulation, ordinance, order or directive, or any agreement or undertaking, to which the Borrower and/or Guarantor(s) are parties or by which the Borrower and/or Guarantor(s) may be bound or affected;

- (iii) the shareholders of the Borrower are natural persons only and said shareholders do not hold the shares on behalf of or in trust for others; and
- (iv) all the Borrower's financial statements and the Guarantor(s)' net worth statements, if any, that have been delivered to the Lender fairly and accurately reflect the Borrower's financial condition and the Guarantor(s)' net worth, as the case may be, as of the date of their submission to the Lender, and, since that date, there has been no material adverse change in the Borrower's financial condition and/or business, or the Guarantor(s)' net worth.

#### 20. INFORMATION COVENANTS:

Until such time as the Lender's commitment as provided for in the Loan Documents has been terminated and all obligations of the Borrower under the Loan Documents have been irrevocably paid and performed in full, the Borrower covenants and agrees that the Borrower shall provide the Lender:

- (a) prompt notice of any action, suit, litigation, tax claim, arbitration, proceeding, dispute, or investigation pending, initiated, threatened or affecting against the Borrower and/or Guarantor(s);
- (b) prompt notice of any action or steps taken or legal proceedings started by or against it in any court of law for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of the Borrower or of any or all of its assets; and
- (c) upon demand by the Lender, all of the Borrower's statutory books, accounts, bank statements and other records including Notice to Reader and/or Review Engagement Financials, within forty-five days (45) of demand.

#### 21. SHAREHOLDING COVENANTS:

Until such time as the Lender's commitment as provided for in the Loan Documents has been terminated and all obligations of the Borrower under the Loan Documents have been irrevocably paid and performed in full, the Borrower covenants and agrees that:

- (a) the shareholders of the Borrower shall be natural persons only, and shall not hold the shares on behalf of or in trust for others;
- (b) the capital structure or constating documents of the Borrower shall not be amended or changed in any manner;
- (c) the shareholders of the Borrower shall not, directly or indirectly, transfer their shareholding in the Borrower without the prior approval of the Lender; and
- (d) upon happening of an event of default under any of the Loan Documents, the Borrower shall not declare or pay any dividends, or authorize or make any other distributions or payment on account of or in redemption, retirement or purchase of any capital stock.

#### 22. AFFIRMATIVE COVENANTS:

Until such time as the Lender's commitment as provided for in the Loan Documents has been terminated and all obligations of the Borrower under the Loan Documents have been irrevocably paid and performed in full, the Borrower covenants and agrees that the Borrower shall:

- (a) keep and maintain in accordance with good business practice and laws, all statutory books, books of accounts, bank statements and other records of the Borrower and in particular, maintain records showing the operations and financial conditions of the Borrower and such records shall be open to examination by the Lender and/or its authorized representatives;
- (b) maintain in full force and effect its corporate existence and good standing in its jurisdictions of incorporation and good standing in each other jurisdiction where it carries on business;

- (c) comply at all times with all statutes, laws, rules, regulations, ordinances, orders or directives applicable to the Borrower, including tax laws and environmental laws, the collateral and the conduct of the Borrower's business and shall obtain and maintain all licences, approvals and agreements required for the Borrower to carry on its business;
- (d) file all relevant tax returns and pay all its taxes and statutory dues promptly when due and payable and, to the extent any taxes are not due, establish reserves that are adequate for the payment of those taxes and statutory dues; and
- (e) permit the Lender and its agents access to the Mortgaged Property at reasonable times.

### 23. NEGATIVE COVENANTS:

Until such time as the Lender's commitment as provided for in the Loan Documents has been terminated and all obligations of the Borrower under the Loan Documents have been irrevocably paid and performed in full, the Borrower covenants and agrees that it shall not:

- (a) engage in any business activity that is not directly connected to the Business Purpose;
- (b) use or carry on business under any legal name, trade name or style, other than those disclosed to the Lender;
- (c) amalgamate, merge or consolidate with or into any other person, whether or not the Borrower would be the surviving entity, continue its existence under the laws of any other jurisdiction, or consent to the transfer of any shares, issuance of shares or other transactions which results in any change of control;
- (d) establish any pension plan or make other similar contributions;
- (e) other than Permitted Indebtedness (as defined below), incur any indebtedness or make or incur any loan, advance or investment to or in any other person;
- (f) become liable as a guarantor, surety or accommodation party or otherwise for the debt of any other person;
- (g) enter into, or continue, any transaction with any person under the control of the Borrower, in control of the Borrower, or under common control with the Borrower, except upon arm's length terms that are no less favorable to the Borrower than could be obtained from an unrelated third party;
- (h) other than Permitted Security Interest (as defined below), create any encumbrance on any of its assets;
- (i) convey, sell, transfer, lease or otherwise dispose of any assets encumbered by liens in favour of the Lender;
- (j) use the proceeds of the Loan, or any portion of the Loan, for any purpose other than as set out in the Loan Documents;
- (k) enter into any management contract or similar arrangement whereby its business or operations are managed by any person other than any of the Guarantor(s); and
- (l) either directly or indirectly, transfer its ownership or interest in the Mortgaged Property to any other person.

### 24. OCCUPATION OF THE MORTGAGED PROPERTY

Unless an Event of Default has occurred and is continuing, the Borrower may lease or rent out the Mortgaged Property to any person(s).

Upon the occurrence and during the continuance of an Event of Default, the Borrower may not enter into a new lease for any part of the Mortgaged Property, without the prior approval of the Lender.