



STANDARD MORTGAGE TERMS

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BANK OF MONTREAL GUARANTEE MORTGAGE LAND TITLE ACT REFERENCE NUMBER MT900108

These mortgage terms are deemed to be included in and form part of every mortgage, which incorporates them by reference, granted to Bank of Montreal.

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I DEFINITIONS AND INTERPRETATION

1.01 In this Mortgage, the following words and phrases have the meanings indicated:

"Bank" means Bank of Montreal, which is the lender or mortgagee described in the Mortgage Form, and its successors and assigns;

"Bank's Address" means the address of the Bank described in the Mortgage Form or any other address that the Bank may give the Mortgagor in writing;

"Customer" means the person or persons referred to in the Schedule to the Mortgage Form as the Customer;

"Debts and Liabilities" means the present and future debts and liabilities, direct or indirect or otherwise, now or at any time and from time to time hereafter due and owing to the Bank from or by the Customer;

"Guarantee" means the guarantee delivered by the Mortgagor to the Bank for payment of the Debts and Liabilities;

"Interest" means interest, at the Interest Rate, on all money owed to the Bank under this Mortgage;

"Interest Rate" means the interest rate described in the Mortgage Form, or such other rate or rates of interest as may be agreed upon between the Mortgagor and the Bank, and, if that interest rate is stated to be a rate above the Prime Rate, means the rate per annum equal to the aggregate of the Interest Margin and the Prime Rate in effect from time to time and shall change automatically, without notice to the Mortgagor, on each date the Prime Rate is changed by the Bank;

"Interest Margin" means the percentage rate above the Prime Rate set out in the Mortgage Form;

"Lands" means the mortgaged land described in the Mortgage Form;

"Maximum Amount" means the limit of the Mortgagor's liability under the Guarantee and set out in the Schedule to the Mortgage Form, or if there is no such limit set out in the Schedule to the Mortgage Form, the aggregate outstanding at any time of the Debts and Liabilities;

"Mortgage Form" means Part 1 of the form of mortgage established by regulation under the **Land Title Act** known as "Form B Mortgage" and all schedules and addenda thereto, which form refers to these Mortgage Terms and is signed by the Mortgagor;

"Mortgage Money" means the Maximum Amount, Interest and all other money owing by the Mortgagor to the Bank under and secured by this Mortgage;

"Mortgage Terms" means these filed mortgage terms;

"Mortgagor" means the person or persons described in the Mortgage Form as the borrower or mortgagor and who signed the Mortgage Form as the borrower or mortgagor, and the heirs, personal representatives, successors and assigns of the Mortgagor;

"Mortgagor's Address" means the address of the Mortgagor described in the Mortgage Form or any other address that the Mortgagor may give the Bank in writing;

"Mortgagor's Interest" means the Mortgagor's presently held right, title and interest in and to the Lands and any other right, title or interest that the Mortgagor may in the future acquire in the Lands and includes, without limitation, all the Mortgagor's right, title and interest in the fee simple and under all charges affecting the Lands including, without limitation, any mortgage, lease, right to purchase, easement, assignment of rents, equitable charge, judgment, restrictive covenant, right of first refusal, option to lease, option to purchase, licence of or right of way over the Lands;

"Permitted Encumbrances" means charges affecting the Lands or the Mortgagor's Interest consented to in writing by the Bank;

"person" includes an individual, a corporation and a partnership of individuals or corporations or a combination thereof;

"Place of Payment" means the place of payment described in the Mortgage Form or any other place of payment that the Bank may give the Mortgagor;

"Prime Rate" means the floating annual prime interest rate established from time to time by the Bank as the reference rate it will use to determine rates of interest payable to the Bank by borrowers from the Bank of Canadian dollar loans in Canada and designated by the Bank as its prime rate;

"Taxes" means the aggregate of:

- (a) all taxes, rates, duties or assessments now or hereafter existing or claimed in respect of the Lands or the Mortgagor's Interest or the use and occupation of the Lands or the Mortgagor's Interest or any machinery, equipment or improvements on the Lands or arising

out of any transaction between the Mortgagor and the Bank, but does not include the Bank's income tax;

- (b) all penalties, interest and other moneys added to the amounts described in (a) by the taxing authorities; and
- (c) all utility charges including those for electricity, gas, water, telephones and cable television now or hereafter existing or claimed in respect of the Lands or the Mortgagor's Interest;

"this Mortgage" means the Mortgage Form and these Mortgage Terms.

- 1.02 Every certificate signed by an officer of the Bank purporting to show the amount of Mortgage Money at any particular time due and payable under this Mortgage shall be prima facie evidence as against the Mortgagor of the amount due and payable at such time under this Mortgage.
- 1.03 Every certificate signed by an officer of the Bank purporting to show the Prime Rate at any particular time shall be conclusive evidence of the Prime Rate at that time.
- 1.04 The invalidity or unenforceability of the whole or any part of any clause of this Mortgage shall not affect the validity or enforceability of any other clause or the remainder of such clause.
- 1.05 The headings for clauses of these Mortgage Terms have been inserted for reference only and do not define, limit, alter or enlarge the meaning of any provision of this Mortgage.
- 1.06 A reference in these Mortgage Terms to a particular clause, unless otherwise specified, means a clause of these Mortgage Terms.
- 1.07 All covenants made by or liabilities imposed upon the Mortgagor, if more than one, shall be joint and several.
- 1.08 Time shall be of the essence hereof.
- 1.09 The Bank may from time to time and at any time waive in whole or in part the benefit to it of any provision in this Mortgage or any default by the Mortgagor, but such waiver on any occasion shall be deemed not to be a waiver of such provision thereafter or of any subsequent default but no waiver shall be binding on the Bank unless it is in writing.
- 1.10 In accordance with the **Property Law Act**, so far as this Mortgage is concerned the doctrine of consolidation is not abolished.
- 1.11 All provisions hereof shall have effect to the maximum extent permitted by law, any statute to the contrary notwithstanding.
- 1.12 Whenever the singular or masculine is used in this Mortgage the same shall be deemed to include the plural or the feminine or the body corporate as the context may require.
- 1.13 If there is any conflict between these Mortgage Terms and the Mortgage Form, the provisions of the Mortgage Form shall govern.
- 1.14 This Mortgage shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

II MORTGAGE

- 2.01 For consideration, the Mortgagor grants and mortgages to the Bank absolutely the Mortgagor's Interest to have and to hold to and for the use of the Bank forever.
- 2.02 This Mortgage will be void upon:
- (a) either
 - (i) payment, at any time, by the Mortgagor to the Bank of the Maximum Amount; or
 - (ii) payment, at any time after the Mortgagor's further liability has been terminated pursuant to clause 7.23 by the Mortgagor to the Bank of the amount of the Debts and Liabilities after such termination; and
 - (b) payment of all such other moneys as the Bank may be entitled to by virtue of this Mortgage as and when such moneys shall become due and payable; and
 - (c) payment of Taxes; and
 - (d) observance and performance of all covenants, provisos and conditions herein contained.
- 2.03 The Mortgagor releases to the Bank all claims of the Mortgagor on the Lands and the Mortgagor's Interest subject to the foregoing proviso for redemption.

III REPRESENTATIONS AND WARRANTIES

The Mortgagor represents and warrants to the Bank that:

- (a) the Mortgagor has the right to mortgage and charge the Mortgagor's Interest to the Bank;
- (b) the Mortgagor has good title to the Mortgagor's Interest subject only to Permitted Encumbrances;
- (c) on default the Bank shall have quiet possession of the Mortgagor's Interest free from all charges except Permitted Encumbrances;
- (d) the Mortgagor has done no act to encumber the Mortgagor's Interest except for Permitted Encumbrances;
- (e) there are no environmental risks or liabilities known to the Mortgagor or, if the Mortgagor is a corporation, to the Mortgagor's directors and officers which have not been disclosed to the Bank.

IV COVENANT TO PAY

- 4.01 The Mortgagor will upon demand by the Bank at any time and from time to time pay to the Bank the amount of such of the Debts and Liabilities as the Bank may specify, limited in aggregate to the Maximum Amount, and will pay interest on the amount of such Debts and Liabilities at the Interest Rate from the dates of such demand.
- 4.02 Interest shall be calculated on a daily basis on the amount of the Debts and Liabilities, up to the Maximum Amount outstanding from time to time after demand and on the basis of the actual number of days elapsed divided by 365 (or, in the case of a leap year, 366) and aggregated and paid on the last day of each month.
- 4.03 If the Mortgagor fails to pay when due the Mortgage Money, or any part thereof, including compound interest, the Mortgagor shall pay to the Bank compound interest thereon at the Interest Rate as well after as before maturity to be computed with rests on the last day of each month.
- 4.04 All payments to the Bank hereunder shall be made at the Place of Payment. Any payment made after 1:00 p.m. local time at the Place of Payment shall be deemed to have been made on the next business day.

V DEFAULT

Each of the following, unless waived by the Bank in writing, shall be an event of default under this Mortgage:

- (a) default at any time of payment pursuant to Article IV; or
- (b) default of payment of any other moneys owing hereunder when payable; or
- (c) breach by the Mortgagor of any other covenant or agreement herein contained which breach is not rectified within 10 days of notice thereof to the Mortgagor; or
- (d) default of payment of any moneys payable under, or in the observance or performance of any covenant, agreement, term or condition of, any charge on the Lands or the Mortgagor's Interest or any instrument creating or pertaining to the Mortgagor's Interest; or
- (e) breach by the Mortgagor of any covenant or agreement in any other agreement between the Bank and the Mortgagor which breach is not rectified within the time provided for therein or, if no such time for rectification is specified, within 10 days of notice thereof to the Mortgagor; or
- (f) the Mortgagor makes an assignment for the benefit of his creditors, is declared bankrupt, makes a proposal or otherwise takes advantage of provisions for relief under the **Bankruptcy Act**, the **Companies Creditors' Arrangement Act** or similar legislation in any jurisdiction, or makes an authorized assignment; or
- (g) a receiver, receiver and manager or receiver manager of all or any part of the Lands or the Mortgagor's Interest is appointed; or
- (h) an order of execution against the Lands or the Mortgagor's Interest or any part thereof remains unsatisfied for a period of 10 days; or
- (i) any representation or warranty, whether or not contained herein, by or on behalf of the Mortgagor to the Bank is untrue; or
- (j) without the prior written consent of the Bank, the Mortgagor creates or permits to exist any mortgage, lien or charge on, or claim against the Lands or the Mortgagor's Interest which ranks or could in any event rank in priority to or pari passu with any charge created by this Mortgage; or
- (k) the holder of any other mortgage, lien or charge on, or any claim against, the Mortgagor's Interest does anything to enforce or realize on such mortgage, lien, charge, or claim; or
- (l) all or any portion of the Lands is expropriated; or
- (m) if the Mortgagor is a corporation, an order is made or an effective resolution is passed for winding up the Mortgagor; or
- (n) if the Mortgagor is a corporation, the Mortgagor enters into an amalgamation, a merger or other similar arrangement with any other person, without the prior written consent of the Bank; or
- (o) if the Mortgagor is a corporation, the Mortgagor ceases, or threatens to cease, to carry on its business; or
- (p) if the Mortgagor is a corporation, there is a change in control of the Mortgagor; or
- (q) if the Mortgagor is an individual, the Mortgagor dies or is declared incompetent to manage his or her affairs; or
- (r) if the Mortgagor sells, conveys, transfers or enters into an agreement for sale of or transfer of title to the Mortgagor's Interest or the Lands or any part thereof.

VI BANK'S REMEDIES

- 6.01 Upon the occurrence of an event of default as set out in Article V, the Mortgage Money shall, at the option of the Bank, become immediately due and payable and the Bank may at its discretion do any one or more of the following:
- (a) apply to Court for an order that the Lands or the Mortgagor's Interest be sold on terms approved by the Court;
 - (b) apply to Court to foreclose the Mortgagor's Interest in the Lands;
 - (c) take whatever action is necessary to take, recover and keep possession of the Lands and the Mortgagor's Interest;
 - (d) without notice sell the Mortgagor's Interest or any part thereof by public auction or private sale for such price as can reasonably be obtained therefor, and on such terms as to credit and otherwise, and with such conditions of sale and stipulations as to title or evidence of title or otherwise as it shall in its discretion deem proper; and in the event of any sale on credit or for part cash and part credit, the Bank shall not be accountable for or charged with any moneys until actually received; and the Bank may rescind or vary any contract of sale and may buy in and resell the Mortgagor's Interest or any part thereof without being answerable for loss occasioned thereby; and no purchaser shall be bound to inquire into the legality, regularity or propriety of any sale or be affected by notice of any irregularity or impropriety; and no lack of default or want of notice or other requirement, or any irregularity or impropriety of any kind shall invalidate any sale; and the Bank may take sale proceedings hereunder, notwithstanding that other mortgage proceedings have been taken or are then pending; and for the purposes of this clause the Mortgagor hereby appoints the Bank as its irrevocable attorney to exercise the aforesaid powers and to execute and do all deeds, documents and things as may be necessary in the circumstances;
 - (e) appoint a Receiver or Receiver Manager of the Mortgagor's Interest and of all the properties, assets, effects and undertakings (hereinafter all together called the "Undertakings") of the Mortgagor related to or arising out of the Lands and the Mortgagor's Interest and may from time to time remove any Receiver or Receiver Manager so appointed and appoint another in his stead, but the Bank shall be under no liability to the Receiver or Receiver Manager for his remuneration or otherwise, and a Receiver or Receiver Manager so appointed shall be the agent of the Mortgagor and shall have power:
 - (i) to take possession of and get in the Mortgagor's Interest and the Undertakings;
 - (ii) to sell or lease or concur in selling or leasing the Mortgagor's Interest and the Undertakings;
 - (iii) to make any arrangement or compromise which he shall think expedient;
 - (iv) to the extent permitted by law or to such lesser extent permitted by his appointment, to carry on, or concur in the carrying on of, any development or improvement then in progress or otherwise contemplated by the Mortgagor related to the Mortgagor's Interest or the business of the Mortgagor relating to the Lands and for such purpose from time to time to borrow money either secured or unsecured, and if secured by security on the whole or any part of the Mortgagor's Interest and the Undertakings which security may rank before or pari passu with or behind this Mortgage as such security may specify and if it does not so specify it shall rank before this Mortgage.
- 6.02 The net proceeds of any sale or lease, or both, hereunder shall be applied, subject to the claims of all secured and unsecured creditors (if any) ranking in priority to this Mortgage, as the Bank, in its absolute discretion, may direct:
- (a) in payment of any costs, charges, expenses and legal fees (between solicitor and his own client):

- (i) incurred in taking, recovering or keeping possession of the Lands or by reason of non-payment of the Mortgage Money;
 - (ii) and incidental to the appointment of the Receiver or Receiver Manager and the exercise by him of all or any of the powers aforesaid including his reasonable remuneration and all outgoings properly payable by him;
- (b) in or toward payment to the Bank of the balance of:
- (i) the amount of the Debts and Liabilities, or
 - (ii) the Maximum Amount,
- whichever is the lesser;
- (c) in or toward payment of Interest and compound interest;
- (d) in or toward payment of other moneys owing hereunder; and,
- subject to applicable laws and the rights of other creditors, any surplus shall be paid to the Mortgagor.

VII GENERAL COVENANTS

- 7.01 The Mortgagor will execute such further assurances of the Lands and the Mortgagor's Interest as the Bank may require.
- 7.02 The Mortgagor will forthwith pay or cause to be paid:
- (a) all Taxes when due and will furnish the Bank with receipts for such payments;
 - (b) all mortgages, liens and charges including Permitted Encumbrances, whether or not registered against the Mortgagor's Interest at the time the Mortgage Form is executed, which rank or could in any event rank in priority to this Mortgage;
 - (c) all costs, charges, expenses and legal fees (between solicitor and his own client) which may be incurred by the Bank in:
 - (i) inspecting the Lands and the Mortgagor's Interest;
 - (ii) negotiating this Mortgage;
 - (iii) investigating title;
 - (iv) preparing and registering this Mortgage and other necessary instruments;
 - (v) taking, recovering and keeping possession of the Lands and the Mortgagor's Interest;
 - (vi) all other actions and proceedings taken in connection with or to realize on the security of this Mortgage or to enforce the Bank's rights hereunder (including the Bank's cost of the time and services of the Bank's employees);
 - (vii) preparing and executing a discharge of this Mortgage.
- 7.03 If the Bank pays and satisfies the whole or any part of any Taxes, or of any mortgages, liens or charges now or hereafter existing or claimed in respect of the Lands or the Mortgagor's Interest, the Bank shall be entitled to all the equities and securities of the person or persons so paid and the Mortgagor hereby authorizes the Bank to retain any discharge thereof without registration for so long as the Bank may think fit so to do.
- 7.04 The Mortgagor will:
- (a) insure and keep insured, or cause to be insured and kept insured, against loss or damage by fire and such other insurable risks and perils as the Bank may deem necessary all improvements now and hereafter on the Lands, to the extent that such improvements form part of the Mortgagor's Interest, for an amount not less than their full insurable value and

if a steam boiler or any other object generating steam or operated by steam shall be operated on the Lands, the Mortgagor will insure and keep insured such improvements against loss or damage by explosion of such boiler or other object;

- (b) effect such insurance with such insurer and on such terms as may be approved by the Bank with loss payable to the Bank in priority to every person except the holder of any Permitted Encumbrances;
- (c) upon execution of the Mortgage Form, deliver to the Bank a copy of the policy or policies evidencing such insurance and of receipts for the premiums thereon;
- (d) at least 15 days prior to the expiry of an insurance policy and, should notice of cancellation be given, at least 5 days prior to the date fixed for cancellation of an insurance policy, deliver to the Bank evidence of renewal or replacement as the case may be;
- (e) effect such new insurance as the Bank may require if the insurer or the insurance ceases to have the approval of the Bank; and

the Mortgagor waives any statutory right to require the insurance proceeds to be applied in any particular manner.

- 7.05 If the whole or any part of any improvements now or hereafter on the Lands is damaged the Mortgagor shall forthwith notify the Bank.
- 7.06 All improvements now or hereafter on the Lands, to the extent that such improvements form part of the Mortgagor's Interest, including but without limiting the generality of the foregoing, all buildings and all apparatus and equipment appurtenant to such improvements, are and shall in addition to other fixtures thereon be and become fixtures and an accession to the freehold and a part of the Lands as between the parties hereto and shall be a portion of the security for the Mortgage Money.
- 7.07 The Mortgagor will not permit the Lands to remain unoccupied or unused.
- 7.08 The Mortgagor will not do anything that has the effect of reducing the value of the Lands or the Mortgagor's Interest or permit waste to be committed or suffered on the Lands and will maintain or cause to be maintained all improvements now or hereafter on the Lands, to the extent that such improvements form part of the Mortgagor's Interest, in good order and repair to the satisfaction of the Bank.
- 7.09 The Bank may at such time or times as it may deem necessary and without the concurrence of the Mortgagor or any other person make such arrangements for repairing, finishing, and putting in order of any improvements now or hereafter on the Lands, to the extent that such improvements form part of the Mortgagor's Interest, and for the inspecting, taking care of, leasing, collecting of rents of, and managing generally the Lands as it may deem expedient, without thereby becoming liable as a mortgagee in possession.
- 7.10 If the Mortgagor fails to make all payments required by clause 7.02 or clause 8.01(b) or to insure pursuant to clause 7.04, the Bank, without in any way being obliged to do so, may make such payments and effect such insurance, and all costs, charges, expenses and legal fees (between solicitor and his own client) incurred by the Bank in connection therewith and in connection with the exercise by the Bank of its rights under clause 7.09, including an allowance for the time and services of any officer of the Bank or other persons appointed for the above purpose:
 - (a) shall be a charge on the Lands and the Mortgagor's Interest in favour of the Bank prior to all claims subsequent to this Mortgage;
 - (b) shall be payable by the Mortgagor forthwith with Interest until paid; and
 - (c) shall be added to and deemed to be part of the Mortgage Money as if such costs, charges, expenses and legal fees had originally formed part thereof.

- 7.11 The taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of such covenants or affect the Bank's right to Interest and any such judgment shall provide that interest thereon be computed at the same rate or rates and in the same manner as herein provided until that judgment has been fully paid and satisfied.
- 7.12 Any demand or notice herein referred to, or any notice or document relating to any action or other proceeding concerning this Mortgage, may be effectively given to the Mortgagor by the Bank:
- (a) by leaving the same with an adult person on the Lands, if occupied, or placing the same on some portion thereof, if unoccupied; or
 - (b) by delivering the same or mailing the same by prepaid registered post to the Mortgagor at the Mortgagor's Address; or
 - (c) if the Mortgagor is a corporation, by delivering the same or mailing the same by prepaid registered post to the Mortgagor at its registered office; or
 - (d) by publishing the same twice in some newspaper published or circulating in the county or district in which the Lands are situate;
- and to the Bank by the Mortgagor by mailing such notice by prepaid registered post to the Bank at the Bank's Address. If the Mortgagor consists of more than one person, notice to any one of them shall be deemed to be notice to all of them.
- 7.13 Every part into which the Mortgagor's Interest is or may hereafter be divided does and shall stand charged with the whole of the Mortgage Money and no person shall have any right to require the Mortgage Money to be apportioned upon or in respect of such parts but the Bank may release any part or parts of the Mortgagor's Interest with or without sufficient consideration without releasing the Mortgagor from this Mortgage.
- 7.14 The Bank may make advances and re-advances to the Customer in one or more sums at any future date or dates and this mortgage shall be deemed to be taken as security for the ultimate balance of the Debts and Liabilities, including Debts and Liabilities arising from any current and running accounts between the Customer and the Bank represented by advances and re-advances by the Bank to the Customer, at the time of demand hereunder not exceeding the Maximum Amount together with interest as aforesaid and other monies hereby secured. If this mortgage is redeemed by the Mortgagor, it shall be cancelled and shall not be re-issued but:
- (a) any partial payment made by the Customer or by the Mortgagor hereunder to the Bank; or
 - (b) any ceasing by the Customer or the Mortgagor to be indebted to the Bank;
- shall be deemed not to be a redemption or cancellation pro tanto or otherwise, and this Mortgage shall be and remain valid security for any subsequent advance or re-advance by the Bank to the Customer to the same extent as if such advance or re-advance had been made on the execution of the Mortgage Form.
- 7.15 Except to the extent that the Bank issues letters of credit or letters of guarantee or accepts bills of exchange or other negotiable instruments at the request of the Customer and is required to make payments thereunder:
- (a) neither the execution nor the registration of the Mortgage Form shall bind the Bank to advance any moneys;
 - (b) the advance of moneys from time to time shall not bind the Bank to advance any further moneys; and
 - (c) the advance of moneys or any part thereof under this Mortgage shall be in the sole discretion of the Bank;

- 7.16 Any and all payments made in respect of the Mortgage Money and the moneys or other proceeds realized from any securities held therefor (including this Mortgage) may be applied, and re-applied, notwithstanding any previous application, on such part or parts of the Mortgage Money or such other indebtedness and liability of the Mortgagor to the Bank as the Bank may see fit.
- 7.17 This Mortgage is and shall be a continuing security to the Bank for the Debts and Liabilities and interest as aforesaid and other monies hereby secured and no apparent change in the state of the account of the Customer or the Mortgagor with the Bank, by reason of monies deposited or of bills of exchange, promissory notes or other commercial paper discounted or given in renewal, substitution or alteration of the bills, notes and paper from time to time held by the Bank or otherwise, shall be deemed to be a repayment on account of the Debts and Liabilities or interest as aforesaid or any part thereof, or call for or require the application of such cash deposits or proceeds as payments on account of the Debts and Liabilities or interest as aforesaid or any part thereof, unless some officer of the Bank shall give a receipt to the Mortgagor to that effect.
- 7.18 This Mortgage shall not nor shall anything herein contained operate so as to create any merger, rebate or discharge of any debt owing to the Bank or of any lien, bond, promissory note, bill of exchange or other security held by or which may hereafter be held by the Bank from the Customer or the Mortgagor or from any other person or persons whomsoever, and this Mortgage shall not in any way prejudicially affect any security held or which may hereafter be held by the Bank for the Debts and Liabilities or the monies hereby secured or any part or parts thereof or the liability of any endorser or any other person or persons upon any such lien, bond, promissory note, bill of exchange or other security or any contract or any renewal thereof or replacement or substitution therefor held by the Bank for or on account of the Debts and Liabilities or the monies hereby secured or any part or parts thereof, nor shall the remedies of the Bank in respect thereof be prejudiced or delayed in any manner whatsoever by the taking of this Mortgage.
- 7.19 The taking of this Mortgage shall not operate as a merger of the remedies of the Bank for payment of the Debts and Liabilities or of the remedies of the Bank under the Guarantee and notwithstanding this Mortgage or anything contained herein such remedies shall remain intact and be capable of enforcement against the Customer and the Mortgagor and all other persons liable for the Debts and Liabilities or any part or parts thereof in the same manner and to the same extent as if the Mortgage Form had not been executed.
- 7.20 The Bank may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any and all existing securities up to, may abstain from taking securities from or from perfecting securities of, may accept compositions from, and may otherwise deal with the Customer and the Mortgagor and all other persons and securities as the Bank may see fit without prejudicing the rights of the Bank under this Mortgage.
- 7.21 No sale or other dealing by the Mortgagor with the equity of redemption in the Lands or the Mortgagor's Interest shall in any way change the liability of the Mortgagor or in any way alter the rights of the Bank as against the Mortgagor or any other person liable for payment of the Mortgage Money.
- 7.22 The Mortgagor will observe and perform all covenants, agreements, terms and conditions in all instruments creating or pertaining to the Mortgagor's Interest.
- 7.23 The Mortgagor may terminate the Mortgagor's further liability for future debts and liabilities of the Customer to the Bank by ninety days' notice in writing to the Bank and the liability of the Mortgagor for such future debts and liabilities shall continue until the expiration of ninety days after receipt of such notice by the Bank and after the said ninety days the Mortgagor shall remain liable for the amount of Debts and Liabilities on such date, including all contingent and future liabilities incurred by or to the Bank on or before such date but maturing thereafter.

- 7.24 The Mortgagor will adhere to and comply with all laws, regulations, rules, notices and orders of Canada, British Columbia or any municipality or other authority having or claiming jurisdiction over the Lands and affecting the Lands or the Mortgagor's Interest including, without limitation, environmental requirements.
- 7.25 The Mortgagor covenants and agrees to assume any and all environmental liabilities relating to the Lands and the Mortgagor's Interest including, without limitation, any liability for the clean-up of any hazardous substances on or under the Lands and the Mortgagor indemnifies and saves harmless the Bank from and against any and all claims, demands, liabilities, losses, damages and expenses suffered by the Bank arising out of or in connection with any and all environmental liabilities relating to the Lands.

VIII SPECIAL INTERESTS

8.01 **Strata Lot:** If the Lands form part of a strata title development:

- (a) the Mortgagor shall comply with, observe and perform all provisions of the **Condominium Act**, its regulations and the by-laws, rules and regulations of the strata corporation (the "Strata Corporation") constituted by the deposit of the appropriate strata plan from time to time in force;
- (b) the Mortgagor shall pay, on or before the due dates thereof, each and every assessment, contribution, charge, fine or levy made by or on behalf of the Strata Corporation in respect of the Lands;
- (c) the Bank is hereby authorized to apply to the Strata Corporation at any time and from time to time for certification of the matters referred to in sub-clauses (a) and (b) above in connection with the Lands, or that no moneys are owing to the Strata Corporation by the Mortgagor or to inspect or obtain copies of any records or other documents of the Strata Corporation that the Mortgagor is entitled to inspect or obtain;
- (d) the Mortgagor's power and right to vote conferred on it by or under the **Condominium Act** may be exercised by the Bank in respect of all matters in relation to which the **Condominium Act** allows or provides that the Bank may vote, such power and rights being hereby assigned, transferred and set over unto the Bank, and in respect of all other matters, the Mortgagor hereby irrevocably appoints the Bank as proxy for the Mortgagor to attend, speak and vote for and on behalf of the Mortgagor but in the discretion of the Bank at all meetings of the Strata Corporation; provided the Bank shall not be obliged to vote or to protect the interests of the Mortgagor and shall not be liable to the Mortgagor in connection with any consequences of the Bank's exercise or failure to exercise such right to vote;
- (e) if for any reason whatsoever the Mortgagor votes at any meeting of the Strata Corporation, the Mortgagor shall, if directed by the Bank, vote in such manner as the Bank directs with respect to each and every matter to be voted;
- (f) at least five days prior to each general meeting of the Strata Corporation, the Mortgagor shall deliver to the Bank written notice of the meeting specifying the place, date, hour and purpose of the meeting;
- (g) at the request of the Bank, the Mortgagor will deliver to the Bank copies of all notices, financial statements and other documents given by the Strata Corporation to the Mortgagor;
- (h) if the Strata Corporation transfers, charges or adds to the common property, or amends its bylaws without the consent of the Bank, and if, in the Bank's opinion, the value of the Lands is reduced, the Mortgage Money shall, at option of the Bank, become immediately due and payable.

8.02 Mortgage of Mortgage: If the Mortgagor's Interest is as a mortgagee of the Lands under a mortgage (in this clause called the "Head Mortgage"):

- (a) the Mortgagor transfers and assigns to the Bank absolutely all the right, title and interest of the Mortgagor in and to the Head Mortgage and the moneys now and hereafter owing thereunder, together with the full benefit of all powers and all covenants and provisions in the Head Mortgage, including any guarantee contained in the head Mortgage, and also, full power and authority to use the name of the Mortgagor for enforcing the performance of the covenants and other matters and things contained in the Head Mortgage;
- (b) the Mortgagor represents and warrants to the Bank that the Head Mortgage is good and valid security;
- (c) the Mortgagor represents and warrants to the Bank that the Mortgagor has not done, nor permitted any act, matter or thing whereby the Head Mortgage has been released or discharged, either in whole or in part;
- (d) the Mortgagor covenants and agrees that default of any kind under the Head Mortgage or the Mortgagor becoming entitled to take any action or proceeding under the Head Mortgage shall be an event of default under this Mortgage;
- (e) the Mortgagor shall not accept any prepayment of the moneys owing under the Head Mortgage other than in accordance with the terms thereof; provided that, if the Mortgagor is obliged to accept a prepayment, the amount thereof shall be paid to the Bank as a prepayment of the Mortgage Money unless the Bank waives such prepayment.

8.03 Vendor's Interest in Right to Purchase: If the Mortgagor's Interest in the Lands is the full fee simple subject to a right to purchase (in this clause called the "Right to Purchase"):

- (a) the Mortgagor transfers and assigns to the Bank absolutely all the right, title and interest of the Mortgagor in and to the Right to Purchase and the moneys now and hereafter owing thereunder, together with the full benefit of all powers and all covenants and provisions in the Right to Purchase, and full power and authority to use the name of the Mortgagor for enforcing the performance of the covenants and other matters and things contained in the Right to Purchase; and
- (b) the Mortgagor shall not accept any prepayment of the Right to Purchase other than in accordance with the terms thereof; provided that, if the Mortgagor is obliged to accept a prepayment, the amount thereof shall be paid to the Bank as a prepayment of the Mortgage Money unless the Bank waives such prepayment.

8.04 Assignment of Rents: If the Mortgagor's Interest is subject to any lease, agreement to lease, tenancy, right of use or occupation, or licence (all of which leases, agreements to lease, tenancies, rights and licences are in this clause collectively called the "Leases"):

- (a) the Mortgagor transfers and assigns to the Bank absolutely all rents and moneys of whatsoever nature or kind (in this clause called the "Rents") now due and payable or which may hereafter become due and payable:
 - (i) in respect of all existing and future Leases in respect of the whole or any portion of the Lands; and
 - (ii) under every existing and future guarantee of each and every one of the obligations of each and every existing or future tenant, user, occupier, or licensee of the whole or any portion of the Lands,

together with the benefit of all covenants and rights therein, and, specifically, in the Leases contained, and the full power and authority to demand, collect, sue for, distrain for, recover, receive and give receipts for the Rents and to enforce payment thereof in the name of the Mortgagor;

- (b) the Mortgagor covenants and agrees with the Bank that:
- (i) it has not and will not do or omit to do any act having the effect of terminating, cancelling or accepting surrender of any of the Leases or of waiving, releasing, reducing or abating any rights or remedies of the Mortgagor or obligations of any other party thereunder or in connection therewith;
 - (ii) none of such rights, remedies or obligations are or will be affected by any other agreement, document or understanding or by any reduction, abatement, defence, set-off, or counterclaim, except as herein expressly provided;
 - (iii) none of the Leases or the Mortgagor's rights thereunder including the right to receive the Rents, will be amended, assigned, encumbered, discounted or anticipated;
 - (iv) none of the Rents has been or will be paid in advance for a period exceeding one month;
 - (v) none of the remainder of the Rents has been or will be paid prior to the due date for payment thereof;
 - (vi) there is no existing default in payment of rent under any of the Leases by any of the parties thereto;
 - (vii) there is no outstanding dispute under any of the Leases between the Mortgagor and any other party thereto;
 - (viii) the Mortgagor will observe and perform all of its obligations under each of the Leases;
 - (ix) a true copy of each of the Leases will be delivered by the Mortgagor to the Bank upon demand by the Bank;
 - (x) the Mortgagor will execute such further assurances as may be required by the Bank from time to time to perfect this assignment, including without limiting the generality of the foregoing, whenever any lease not now existing is made or arises, the Mortgagor will, upon demand by the Bank at any time, forthwith give the Bank a specific assignment of the rents and guarantees thereunder, if any, similar to this assignment and will give any other parties thereto notice of such assignment and will obtain from them acknowledgments of such notice;
 - (xi) the Mortgagor will not lease or agree to lease or grant any licence or user of any part of the Lands except at a rent and on terms and conditions and to tenants which are not less favourable or desirable to the Mortgagor than those which a prudent landlord would expect to receive for the premises to be leased;
 - (xii) nothing herein contained shall have the effect of making the Bank responsible for the collection of the Rents, or any of them, or for the performance of or in respect of the Leases, or any of them, to be observed or performed by the Mortgagor and the Bank shall not, by virtue of this assignment or its receipt of the Rents or any of them, become or be deemed a mortgagee in possession of the Lands and the Bank shall not be under any obligation to take any action or exercise any remedy in the collection or recovery of the Rents, or any of them, or to see to or enforce the performance of the obligations and liabilities of any person under or in respect of the Leases, or any of them, and the Bank shall be liable to account only for such monies as shall actually come into its hands, less proper collection charges and such monies may be applied on account of any indebtedness of the Mortgagor to the Bank;
 - (xiii) the Mortgagor, upon demand of the Bank at any time, shall, and the Bank may at any time, notify each and every one of the parties so obligated to pay the Rents, or any part thereof, that the same have been assigned to the Bank.

8.05 Leasehold Mortgage: If the Mortgagor's Interest is as a lessee of the Lands under a lease, agreement to lease, tenancy, right of use or occupation, or licence or renewal, replacement or extension thereof (all of which leases, agreements to lease, tenancies, rights, licences, renewals, replacements and extensions are in this clause collectively called the "Lease"):

- (a) the Mortgagor grants and mortgages to the Bank by sub-demise the Mortgagor's Interest and the Lease;
- (b) if the Lease cannot be effectively charged without consent, any charge intended to be created by this Mortgage upon the Lease shall not become effective until, but shall become effective immediately when, all consents necessary for the validity and effectiveness of such charge have been obtained;
- (c) the last 10 days of the Mortgagor's right to occupy or use the Lands under the Lease are excepted out of the charge created by this Mortgage;
- (d) the Mortgagor represents and warrants to the Bank that the Lease is in good standing, the Mortgagor has the right to mortgage the Lease to the Bank, all rents or other moneys payable under the Lease have been paid and all other obligations under the Lease, whether of the Mortgagor or the landlord, have been performed or complied with;
- (e) the Mortgagor covenants and agrees that any default under the Lease is a default under this Mortgage;
- (f) without the prior written consent of the Bank, the Mortgagor will not surrender or terminate the Lease or permit any amendment of the terms of the Lease; and
- (g) unless otherwise permitted by the Bank, the Mortgagor shall exercise every renewal of the Lease.

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