

Standard Mortgage Terms
Filed by The Toronto-Dominion Bank ("TD Bank")
Document Filing No.: MT900130
Filing Date: April 2, 1990
The Land Title Act

The following set of STANDARD MORTGAGE TERMS shall be deemed to be included in every Mortgage in which the set is referred to by its filing number, as provided in section 219.1 of the above Act.

1. Definitions

In this set of Standard Mortgage Terms:

- (a) **Amount of Each Payment** means the Amount of Each Payment set out in this Mortgage.
- (b) **Balance Due Date** means the Balance Due Date set out in this Mortgage and this shall be the same date as the Last Payment Date.
- (c) **Bank** means The Toronto-Dominion Bank.
- (d) **Costs** means the fees, costs, charges and expenses of the Bank of and incidental to:
 - (i) the preparation, execution and registration of the Mortgage and any other instruments connected herewith and every renewal hereof;
 - (ii) the collection, enforcement, realization of the security herein contained;
 - (iii) procuring payment of the Indebtedness due and payable hereunder, including foreclosure, power of sale or execution proceedings commenced by the Bank or any other party;
 - (iv) any inspection required to be made of the Property;
 - (v) all necessary repairs required to be made to and fuel, Fixtures or goods of any sort supplied to be used on the Property;
 - (vi) the Bank's having to go into possession of the Property and secure, complete and equip the building or buildings in any way in connection therewith;
 - (vii) the Bank's renewal of any leasehold interest;

- (viii) the exercise of any of the powers of a receiver contained herein; and
- (ix) all solicitor's costs, costs and expenses of any necessary examination of the title to and of valuation of the Property.

Costs shall:

- (i) extend to and include legal costs incurred by the Bank as between solicitor and his own client;
 - (ii) be payable forthwith by the Mortgagor;
 - (iii) bear interest at the Interest Rate; and
 - (iv) be a charge on the Property prior to all claims thereon subsequent to this Mortgage.
- (e) **First Payment Date** means the First Payment Date set out in this Mortgage.
 - (f) **Fixtures** include but are not limited to furnaces, boilers, oil burners, stokers, water heaters, electric light fixtures, window blinds, screen and storm doors and windows, air conditioning, plumbing, cooling and heating equipment and all apparatus and equipment appurtenant to the Property now or hereafter placed or installed upon the said Property.
 - (g) **Guarantor** means each covenantor described in this Mortgage.
 - (h) **Indebtedness** means the Principal Amount, interest, Costs and all other amounts payable by the Mortgagor under these Standard Mortgage Terms to the Bank and secured by this Mortgage.
 - (i) **Interest Adjustment Date** means the date on which the term of this Mortgage begins and which is the Interest Adjustment Date set out in this Mortgage or any other date which the Mortgagor and Mortgagee agree will be the Interest Adjustment Date.
 - (j) **Interest Rate** means the Interest Rate set out in this Mortgage which is an annual percentage rate calculated half-yearly, not in advance.
 - (k) **Last Payment Date** means the Last Payment Date set out in this Mortgage and this shall be the same date as the Balance Due Date.
 - (l) **Monthly Instalment** means the Amount of Each Payment, which payment includes principal and interest.
 - (m) **Mortgage** means this Mortgage made pursuant to the Land Title Act and any amendments thereto, to which the Mortgagor and the Mortgagee are parties and which is dated as of the date of signature of the first named Mortgagor who signs this Mortgage.
 - (n) **Mortgagee** means the Bank.
 - (o) **Mortgagor** means each Mortgagor described in this Mortgage.

- (p) **Payment Date** means the first day of each and every month from and including the First Payment Date to and including the Last Payment Date.
- (q) **Principal Amount** means the Principal Amount in lawful money of Canada set out in this Mortgage that is outstanding from time to time under this Mortgage.
- (r) **Property** means the property described in this Mortgage and in a Schedule to this Mortgage, if required, and includes all buildings, Fixtures and improvements now or hereafter brought or erected thereon.
- (s) **Spouse of Mortgagor** means each Spouse of Mortgagor described in this Mortgage.
- (t) **Tax Account** means an account on the Bank's books of account, relating to this Mortgage to which all payments made by the Mortgagor to the Bank pursuant to paragraph 12 may at the option of the Bank be credited (as to which account the Bank shall not be a trustee).
- (u) **Taxes** means all taxes, rates and assessments, municipal, local, parliamentary or otherwise.

If the Property is a Strata Lot under the Condominium Act (British Columbia) and amendments thereto, the following definitions apply:

- (v) **Strata Corporation** means the Corporation which was created by the deposit of the Strata Plan in a Land Title Office pursuant to Section 13 of the Condominium Act (British Columbia).
- (w) **Common Expenses** means the expenses of the performance of the duties and powers of the Strata Corporation and any expenses specified as common expenses in the Condominium Act (British Columbia).

2. Mortgage of Property

In return for the Bank making a loan to the Mortgagor in the Principal Amount, the receipt of which is hereby acknowledged by the Mortgagor, the Mortgagor,

- (a) if the Property is freehold property, hereby mortgages all the Mortgagor's estate and interest in the Property to the Bank; or
- (b) if the Property is a leasehold interest, hereby mortgages and sub-leases the Property to the Bank for and during the unexpired residue of the term of the lease, except the last day thereof, and all other estate, term, right of renewal and other interest of the Mortgagor in the lease;

to secure the repayment of the Indebtedness and the performance of all of the obligations of the Mortgagor contained herein. The Mortgagor hereby releases to the Bank all its claims on the Property until the Mortgagor has repaid the Indebtedness and performed all of the obligations of the Mortgagor in the manner provided by this Mortgage.

3. Interest

The Mortgagor hereby agrees:

- (a) To pay the Bank interest on the Principal Amount secured by this Mortgage at the Interest Rate, which shall be payable monthly. This Interest Rate is payable on the Principal Amount both before and after the Balance Due Date as both before and after default, maturity and judgement until the Principal Amount has been repaid in full;
- (b) In case default shall be made in payment of any sum to become due for interest at any time appointed for payment thereof, to pay the Bank compound interest on any interest that is payable on any Payment Date, and which is not paid when due. Compound interest shall be payable on the arrears of principal and on the arrears of interest at the Interest Rate both before and after the Balance Due Date. If the interest and compound interest are not paid in six months from the time of default, a rest shall be made and compound interest at the Interest Rate shall be payable on the aggregate amount of interest and compound interest then due as well after as before the Balance Due Date and so on from time to time; and
- (c) That all interest, compound interest and deferred interest shall be a charge on the Property.

4. Repayment of the Loan

The Mortgagor hereby agrees:

- (a) To repay the Principal Amount, and all interest to the Bank at its principal office in Vancouver, British Columbia or such other place as the Bank may from time to time designate in writing;
- (b) To pay the Bank interest at the Interest Rate monthly, on the amounts from time to time advanced, computed from the respective dates of such advances and such payments of interest shall be made on the first day of each and every month commencing with the month next following the month in which the first advance is made and continuing to and including the Interest Adjustment Date, unless postponed by the Bank or advanced by mutual agreement in writing; and
- (c) Thereafter, to pay the Bank the Principal Amount together with interest thereon at the Interest Rate computed from the Interest Adjustment Date, which shall become due and be paid in Monthly Instalments commencing on the First Payment Date and thereafter on each Payment Date to and including the Balance Due Date at which time the balance of the Principal Amount, if any, and the interest thereon shall become due and be paid.

5. Application of Monthly Instalments

Each Monthly Instalment will be applied first, to pay interest calculated as provided above on the Principal Amount from time to time outstanding, and the balance of the said Monthly Instalment shall then be applied to reduce the Principal Amount.

6. Prepayment

The Mortgagor may prepay the Indebtedness in accordance with the terms contained in a Schedule to the Mortgage, if any.

7. Renewal, Amendment and Assumption of Mortgage

The Mortgagor hereby agrees with the Bank that:

- (a) Any agreement in writing between the Mortgagor and the Bank subsequent to the date of registration of this Mortgage, relating to the renewal or extension of the term of payment hereunder or relating to payment of the unpaid Indebtedness, or to the Interest Rate, or to any of these, need not be registered in any land registration office. Such agreement shall be effectual and binding on the Property and upon the Mortgagor, the Bank and upon any encumbrancer or transferee of the Property, or any part thereof, acquired subsequent to the date of registration of this Mortgage and shall have priority over any subsequent mortgage, encumbrance or transfer of the Property when deposited or held in the said office of the Bank to the same extent and effect as if such agreement in writing has been executed, delivered and registered in the appropriate land registration office prior to the making of such subsequent mortgage, encumbrance or transfer and shall not release or affect any agreement or covenant herein or collateral hereto;
- (b) No agreement for renewal hereof or for extension of the term of or time for payment of the Indebtedness hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Mortgagor to the Bank after the expiration of the Balance Due Date or of any subsequent term agreed to in writing between the Mortgagor and the Bank, and that no renewal hereof or extension of the time for payment of any Indebtedness hereunder shall result from, or be implied from, any other act, matter or thing, save only an express agreement in writing between the Mortgagor and the Bank, and no extension of time given by the Bank to any other person shall prejudice the rights of the Bank against the Mortgagor or any other person liable for payment of the Indebtedness; and
- (c) If the Property is a leasehold interest no sale or other dealing by the Mortgagor with the lease or the Property or any part thereof and no extension of time given by the Bank to the Mortgagor, or anyone claiming under the Mortgagor or any other dealing by the Bank with the owner of the lease or any part thereof, shall in any way affect or prejudice the rights of the Bank against the Mortgagor or any other person liable to repay the Indebtedness hereby secured.

In the event the Mortgagor sells, conveys, transfers or enters into any agreement of sale or transfer of the title of the said Property (in this paragraph "Conveys") to a purchaser, grantee or transferee (in this paragraph "Purchaser") who intends to assume the Mortgage and who is not approved by the Bank then the Bank may at its option in writing demand repayment of all Indebtedness hereby secured with accrued interest thereon at the Interest Rate.

If the Purchaser who intends to assume this Mortgage fails to:

- (a) apply for and receive the written consent of the Bank, with or without conditions; and
- (b) personally assume all the obligations of the Mortgagor, or sign the assumption agreement of the Bank,

then the Bank may at its option and in writing demand repayment of the Principal Amount of this Mortgage with accrued interest thereon. If the Mortgagor Conveys to a Purchaser who does not intend to assume this Mortgage, the prepayment provisions set out in paragraph 6 of this Mortgage will apply.

No change of ownership of the Property shall in any way affect or prejudice the rights of the Bank against the Mortgagor or any other person liable for payment of the Indebtedness hereby secured.

8. Advances Under Mortgage

Neither the preparation, execution, registration or acceptance of this Mortgage shall bind the Bank to advance the Principal Amount intended to be secured hereby. Nor shall the advance of a part of the Principal Amount bind the Bank to advance any unadvanced portion thereof, but nevertheless the interest hereby charged shall take effect forthwith upon the execution of this Mortgage by the Mortgagor.

9. Payments the Bank Can Make

The Bank may pay the amount of any rent or satisfy any lien, rate, encumbrance or other charge now or hereafter existing or to arise or to be claimed upon the Property or any part thereof and any sum so paid shall unless paid out of the Principal Amount advanced on the security of this Mortgage be payable forthwith by the Mortgagor, and in any case the Bank shall be entitled to all the equities and securities of all persons so paid and is hereby authorized to retain any discharge thereof without registration for so long as the Bank may deem fit.

10. Repayment of Additional Payments

The Mortgagor hereby agrees with the Bank that the Indebtedness payable hereunder, other than the Monthly Instalments hereinbefore provided for and such monthly payments with respect to Taxes and Common Expenses (if the Property is a strata lot) as may from time to time be required, shall be payable forthwith by the Mortgagor without demand therefor, shall bear interest at the Interest Rate calculated in the manner hereinbefore provided and shall be added to the Principal Amount hereby secured and shall be a charge upon the Property to the same extent and effect as the Principal Amount hereby secured.

11. Costs of Mortgage

The Mortgagor hereby agrees to pay the Costs to the Bank including an allowance for the time and expenses of the Bank, its employees and agents for any purpose herein provided and whether incurred with the Mortgagor's knowledge or consent or not. Costs are payable on demand or if not demanded, then with the next ensuing instalment of interest at the place of payment provided herein.

12. Taxes

The Mortgagor agrees with the Bank to pay promptly as they fall due all Taxes which now are or may hereafter be imposed, charged or levied upon the Property and will forthwith provide the Bank with evidence satisfactory to it of payment thereof, and without in any way limiting or restricting the generality of the foregoing obligations and any other obligation of the Mortgagor, the Mortgagor hereby agrees with the Bank that:

- (a) The Bank may pay out of and deduct from any advance of the Principal Amount hereunder any such Taxes, the whole or any instalment of which has or will become payable at the Interest Adjustment Date;

- (b) Whenever and so long as the Bank so requires, the Mortgagor shall on each Payment Date including the First Payment Date and the Last Payment Date pay to the Bank in addition to all other payments hereby required to be paid by the Mortgagor, such sums as the Bank may from time to time estimate to be required in order to provide funds sufficient to pay in full all such Taxes in each year at the time when such Taxes or the first instalment thereof becomes payable and shall transmit to the Bank all tax bills and other notices relative to the imposition of Taxes on the Property immediately after receipt thereof by the Mortgagor;
- (c) All payments so made by the Mortgagor to the Bank pursuant to this paragraph 12 shall at the option of the Bank be either credited to the Tax Account or applied against Indebtedness owing hereunder if the Mortgagor is in default hereunder;
- (d) If and so long as the Bank requires such additional payments to be made, the Bank shall so long as there is no default hereunder pay all such Taxes as they fall due or at such earlier time as the Bank deems fit and the amount hereby expended shall be debited against the Tax Account to the extent that the amount in the Tax Account is sufficient and the Bank may at its option either debit to the Tax Account or add to the Principal Amount hereby secured the amount, if any, by which the Tax Account is insufficient;
- (e) Any debit balance from time to time in the Tax Account shall bear interest at the Interest Rate and shall together with such interest be secured hereby but nothing contained herein shall render the Bank liable to allow or pay interest on any credit balance from time to time in the Tax Account; and
- (f) The amount, if any, by which the aggregate of all Taxes which have been paid by the Bank exceeds at any time and from time to time the aggregate of all payments which have been made by the Mortgagor to the Bank pursuant to this paragraph 12, shall be payable by the Mortgagor forthwith on demand hereof and at any time and from time to time.

13. Covenants of Mortgagor

The Mortgagor covenants with the Bank that:

- (a) The Mortgagor will pay all Indebtedness and observe all provisos, conditions and agreements contained herein at the times and in the manner herein set forth;
- (b) The Mortgagor has a good title in fee simple in possession of the Property subject, however, to such encumbrances and liens as are set forth in the Mortgage (unless the Mortgagor is a lessee of the Property);
- (c) The Mortgagor has the right to mortgage the Property to the Bank;
- (d) On default, the Bank shall have quiet enjoyment and quiet possession of the Property, free from all encumbrances, save as aforesaid;
- (e) The Mortgagor has not done, omitted or permitted any act to encumber the Property;
- (f) The Mortgagor will, before or after default, execute such further assurances of the Property and do such other acts, at the Mortgagor's expense, as may be reasonably required; and

- (g) The Mortgagor agrees to assign to the Bank forthwith upon the request of the Bank as additional security for payment of the Indebtedness and the performance of the covenants herein contained, any present or future lease which may be granted by the Mortgagor as to the whole or any portion of the Property and agrees to deliver to the Bank executed copies of all such leases at the written request of the Bank. The Mortgagor covenants to perform and comply with all lessor's covenants contained in any leases assigned by the Mortgagor to the Bank. Notwithstanding the assignment or assignments of any lease or leases by the Mortgagor to the Bank, it is nevertheless declared and agreed that none of the rights or remedies of the Bank under this Mortgage shall be delayed or in any way hindered or prejudiced by such assignment or assignments or by any act of the Bank pursuant thereto.

14. Additional Covenants if Property is a Leasehold Interest

The Mortgagor covenants with the Bank that:

- (a) The Mortgagor has a good leasehold title to the Property;
- (b) The Mortgagor has a right to charge and sublet the leasehold title to the Property to the Bank in the manner herein provided, and, if required, has obtained the lessor's consent to this Mortgage;
- (c) Neither the Mortgagor nor any other person has heretofore made, done, committed or suffered any act to encumber the lease or any part thereof;
- (d) The lease is good, valid and subsisting lease and not surrendered, forfeited, amended or become void or voidable and the rents and covenants reserved have been duly paid and performed by the Mortgagor up to the date of signature of the Mortgagor;
- (e) During the continuance of this Mortgage, the Mortgagor will not amend, surrender or modify the lease without the written consent of the Bank and will pay the rent reserved by the lease and perform and observe the covenants, provisos and conditions contained in the lease and on the lessee's part to be performed and observed and hereby agrees to keep the Bank indemnified against all actions, claims and demands whatsoever in respect of the said rent and covenants or anything relating thereto; and
- (f) The Mortgagor will stand possessed of the Property for the last day of the term or any renewal term granted by the lease in trust for the Bank, and will assign and dispose thereof as the Bank may direct, but subject to the same right or redemption and other rights as are hereby given to the Mortgagor with respect to the derivative term hereby granted.

15. Additional Covenants if Property is a Strata Lot

The Mortgagor covenants with the Bank that:

- (a) The Mortgagor will promptly observe and perform all obligations imposed on the Mortgagor by the Condominium Act and by any Bylaws that may be passed by the Strata Corporation of which the Mortgagor is a member, by virtue of the Mortgagor's ownership of the said Property. Any breach of the said duties and obligations shall constitute a breach of covenant under this Mortgage;
- (b) Without in any way limiting or restricting the generality of the foregoing:

- (i) The Mortgagor will pay promptly when due any contributions to Common Expenses required of the Mortgagor as an owner of the said Property;
 - (ii) The Mortgagor will transmit to the Bank forthwith upon the demand of the Bank satisfactory proof that all Common Expenses assessed against or in respect of the said Property have been paid as assessed;
 - (iii) The Bank may pay out of and deduct from any advance of the Principal Amount secured hereunder all contributions to the Common Expenses assessed against or in respect of the said Property which have become due and payable and are unpaid at the date of such advance; and
 - (iv) Whenever and so long as the Bank so requires the Mortgagor shall on or before the date when any sum becomes payable by the Mortgagor in respect of Common Expenses pay such sum to the Bank. The Bank shall forthwith on receipt thereof remit all such sums to the Strata Corporation on behalf of the Mortgagor or as the Strata Corporation may from time to time direct;
- (c) Pursuant to the Condominium Act the Bank is hereby irrevocably authorized and empowered to exercise the right of the Mortgagor as the owner of the said Property to vote or to consent in all matters relating to the affairs of the Strata Corporation provided that:
- (i) The Bank may at any time or from time to time give notice in writing to the Mortgagor and the Strata Corporation that the Bank does not intend to exercise the said right to vote or consent and in that event until the Bank revokes the said notice the Mortgagor may exercise the right to vote or consent. Any such notice may be for an indeterminate period of time or for a limited period of time or for a specific meeting or matter;
 - (ii) The Bank shall not by virtue of the assignment to the Bank of the said right to vote or consent, be under any obligation to vote or consent or to protect the interest of the Mortgagor; and
 - (iii) The exercise of the said right to vote or consent shall not constitute the Bank a mortgagee in possession;
- (d) Pursuant to the Condominium Act the Mortgagor hereby authorizes any officer of the Mortgagee to apply, at any time, and from time to time, to the Strata Corporation for certification to the Mortgagee of:
- (i) The amount of any contribution determined as the contribution of the Mortgagor;
 - (ii) The manner in which the contribution is payable;
 - (iii) The extent to which the contribution has been paid by the Mortgagor;
 - (iv) The amount of money expended for the owner by the Strata Corporation and not recovered by it;
 - (v) The amount, if any, by which the expenses of the Strata Corporation for the current fiscal year are expected to exceed the expenses budgeted for the fiscal year;
 - (vi) The amount of the contingency reserve fund;

- (vii) That there are no amendments to the Bylaws not filed in the Land Title Office other than those certified;
- (viii) That no notices have been given for a unanimous or special resolution that has not been voted on, other than those certified;
- (ix) That there are no pending proceedings against the Corporation of which it is aware other than those certified.

16. Insurance

The Mortgagor covenants with the Bank that:

- (a) The Mortgagor or the Strata Corporation (if the Property is a strata lot) will forthwith insure and keep insured in favour of the Bank during the continuance of this Mortgage the buildings on the Property against loss or damage by fire to the amount of not less than their full replacement value;
- (b) Without in any way limiting or restricting the generality of the foregoing:
 - (i) If a sprinkler system or a steam boiler or any other thing or apparatus generating steam or operated by steam shall be installed or operated on the Property, the Mortgagor or the Strata Corporation (if the Property is a strata lot) shall insure the buildings on the Property against loss or damage caused by such sprinkler system or by such boiler or other thing or apparatus or bursting or explosion thereof or defect therein to the full replacement value of such buildings;
 - (ii) The Mortgagor or the Strata Corporation (if the Property is a strata lot) shall insure such buildings against loss or damages by wind, storm, hail, lightning, explosion, riot, impact by aircraft or vehicles, smoke damages and such other risks and hazards as the Bank may from time to time require;
 - (iii) The Bank may require any insurance upon or in respect of such buildings to be cancelled and new insurance to be effected by an insurance company or companies approved by the Bank and by the lessor under the lease if the Property is a leasehold interest, if required by the lessor, and may without reference to the Mortgagor effect or maintain any insurance upon or in respect of such buildings in the absence of satisfactory proof of coverage;
 - (iv) Evidence satisfactory to the Bank of the renewal of every policy of insurance and the payment of every premium shall be left with the Bank at least five (5) days before the termination thereof or the due date of such premium failing which the Bank pay provide therefor;
 - (v) The Bank may require that all monies payable under any insurance upon or in respect of such buildings be applied in payment of all or any of the Indebtedness whether or not then due and payable, or, the monies payable under any insurance may be applied to rebuilding, reinstating or repairing the Property, if required in accordance with the terms of the lease or by the Bank or may be paid to the Mortgagor or the Bank may require them to be applied partly in one way and partly in another, and the Mortgagor agrees that the Mortgagee shall have the right to apply the said insurance monies to the payment of the Indebtedness hereby secured notwithstanding any law, equity or statute to the contrary, and in particular the Fires Prevention (Metropolitan) Act, 1774, and all rights and benefits of the Mortgagor thereunder are hereby expressly waived;

- (vi) All policies of insurance upon or in respect of such buildings shall have loss payable to (1) the Bank or (2) to insurance trustees, if any, designated by the Bylaws and in the absence of such a designation to the Strata Corporation or to both of them (if the Property is a strata lot), and shall be subject to Mortgage clauses in a form approved by the Bank which will be attached to all such policies;
- (vii) The Bank shall have a lien for the Indebtedness on all insurance upon or in respect of the buildings whether effected pursuant to the foregoing covenants or not or, where the Property is a strata lot, the Bank shall have a lien for the Indebtedness on the Bank's interest in the monies payable under the insurance as aforesaid and on all insurance upon or in respect of the Property, whether effected pursuant to the foregoing covenants or not;
- (viii) If the Property is a strata lot, the Mortgagor or the Strata Corporation shall forthwith on the happening of any loss or damage comply fully with the terms of the policy or policies of insurance and, without limiting the generality of paragraph 16 (a) hereof, shall comply with the insurance provisions of the Condominium Act;
- (ix) If the Property is a strata lot, the Mortgagor as a member of the Strata Corporation shall seek the full compliance by the Strata Corporation with the foregoing applicable covenants;
- (x) On the happening of any loss or damage, the Mortgagor at its expense shall furnish all necessary proofs and do all necessary acts to enable the Bank to obtain payment of the insurance monies; and
- (xi) The foregoing provisions as to insurance shall apply with respect to all buildings upon the Property whether recently existing or erected hereafter.

17. Repair and Improvement of the Property

The Mortgagor hereby agrees that:

- (a) The Mortgagor will keep the Property in good condition and repair according to the nature and description of the Property and will not commit any act of waste thereon, or do any other thing by which the value thereof is or might be diminished (as to which the Bank shall be the sole judge);
- (b) The Bank may whenever it deems necessary either in person or by its agent, enter upon and inspect the Property and the reasonable costs of such inspection shall be payable forthwith by the Mortgagor and the Bank may give the Mortgagor notice to repair, rebuild or re-instate the same within a time to be determined by the Bank and to be stated in such notice and upon the Mortgagor's failure to so repair, rebuild or re-instate within such time, such failure shall constitute a breach of covenant hereunder;
- (c) If any building or buildings now or hereafter in the course of construction on the Property shall remain unfinished and without any work being done on them for a period in excess of ten (10) consecutive days during which work would be possible and if at the date of this Mortgage, the buildings and other improvements on the Property have not been fully completed, the Bank may without incurring any liability as a mortgagee in possession enter upon the Property and do all work necessary to protect the same from deterioration and complete the buildings on the Property in accordance with plans and specifications which have been approved in writing by the Bank or when not previously approved, in such manner as the Bank may deem fit and will carry on diligently to complete the construction of the said building or buildings and other improvements; and

- (d) The Mortgagor will promptly observe, perform, execute and comply with all laws, rules, requirements, orders, directions, ordinances and regulations of every Governmental authority or agency concerning the Property and will at the Mortgagor's own costs and expense make any and all improvements thereon or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time by any such present or future law, rule, requirement, order, direction, ordinance or regulation.

18. Assignment of Rents

The Mortgagor hereby agrees with the Bank as follows:

- (a) The Mortgagor hereby assigns and sets over to the Bank all rents payable from time to time under all leases of the Property or any part thereof, whether presently existing or arising in the future, together with the benefit of all covenants, agreements and provisos contained in the said leases, in favour of the Bank;
- (b) Forthwith after making any lease of the Property or any part thereof the Mortgagor will execute and deliver to the Bank an assignment in registrable form in the Bank's usual form of all rents payable under such lease, the benefit of all covenants, agreements and provisos therein contained on the part of the tenant to be observed and performed and the reversion of such lease, and will also execute and deliver to the Bank all such notices and other documents as may be required in order to render such assignment effectual in law. Neither this provision nor the acceptance by the Bank of any such assignment shall be taken to confer upon the Mortgagor any power to grant a lease which is valid against the Bank, unless the Bank specifically authorizes in writing the granting thereof;
- (c) Nothing herein contained shall make the Bank responsible for the collection of rents payable under any lease of the Property or any part thereof or for the performance of any covenants, terms or conditions contained in any such lease;
- (d) The Bank shall not by virtue of these presents be deemed a mortgagee in possession of the Property;
- (e) The Bank shall be liable to account for only such rents as actually come into its hands less proper collection charges in respect thereof and may apply such rents to the repayment of the Indebtedness as evidenced by this Mortgage and any amending, renewal or modification agreement; and
- (f) Notwithstanding anything herein contained no lease of the Property or any part thereof made by the Mortgagor without the consent in writing of the Bank shall have priority over this Mortgage.

19. Remedies on Default of Mortgagor

The Mortgagor hereby agrees with the Bank that in the event of default of any covenant, proviso or agreement hereunder that:

- (a) The Bank shall have the right, but shall not be bound, to perform such covenant, proviso or agreement or to remedy such breach thereof and the Bank may send or employ an inspector or agent to inspect and report upon the value, state and condition of the Property and a Solicitor to examine and report on the title to the same;

- (b) The Bank may enter into possession, either by itself or by its agent, of the Property and whether in or out of possession collect the rents and profits thereof, and make any demise or lease of the Property or any part thereof for such terms, periods and at such rent as the Bank shall think proper, and the power of sale thereunder may be exercised either before or after, and subject to any such demise or lease;
- (c) The Bank may sell and dispose of the Property with or without entering into possession of the Property and with or without notice to the Mortgagor or any party interested in the Property and all remedies competent may be resorted to and all the rights, powers and privileges granted to or conferred upon the Bank under and by virtue of any statute or by this Mortgage may be exercised;
- (d) No want of notice or publication nor any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made of the Property hereunder; but the vendor alone shall be responsible. Whenever and to the extent that it is permitted from time to time by the laws of the Province of British Columbia the foregoing power of sale or lease may be exercised without notice or with less or different notice than that hereinbefore specified or otherwise;
- (e) If the Property is a leasehold interest, the Mortgagor hereby irrevocably appoints the Bank as the Mortgagor's substitute to be the Mortgagor's attorney during the continuance of this security. In the event of default and on giving the notice contemplated herein to the Mortgagor for and on behalf of the Mortgagor, the Bank may assign the lease and convey the Property and the last day of the term granted by the lease as the Bank shall at any time direct, and in particular, upon any sale made by the Bank under the statutory power or power of sale herein contained, to assign the lease and convey the Property and the said reversion to the purchaser. It is hereby declared that the Bank or other person for the time being entitled to the Indebtedness may at any time, by deed, remove the Mortgagor or any other person from being a trustee of the lease under the declaration of trust hereinbefore declared and on the removal of the Mortgagor or any future trustee of the lease, appoint a new trustee or trustees in the Mortgagor's place;
- (f) If the Property is a leasehold interest, the Mortgagor will, with respect to the lease at the request of the Bank, but at the cost, charge and expense of the Mortgagor, grant and assign unto the Bank, or whom it may appoint, the last day of the said term hereinbefore excepted or any renewal or substituted term; and further, in the event of the Bank making any sale under the power of sale herein contained the Mortgagor shall stand seized and possessed of the Property for the last day of the said term hereinbefore excepted, and of any renewal or substituted term, and of all rights of renewal in trust for the purchaser or purchasers, his or their heirs, executors, administrators, successors and assigns;
- (g) The Bank may sell the Property or any part thereof or, if the Property is a leasehold interest, sell the unexpired term of years demised by the lease or any part thereof by public auction or private sale and on such terms as to credit or part cash and part credit secured by contract or agreement for sale or mortgage, or otherwise as shall appear to it most advantageous, and for such price as can be reasonably obtained thereof, and may make any stipulations as to title or otherwise which it shall think proper; and may buy in or rescind or vary any contract for sale of any of the Property, and re-sell without being answerable for any loss occasioned thereby, and for any of said purposes may make and execute all agreements and assurances which it shall think fit, and the purchaser shall in no case be bound to enquire whether notice of intention to sell has been given or default made, or otherwise as to the regularity or validity of any sale or lease made hereunder. In the event of a sale on credit or for part cash and part credit, whether by way of contract for sale or by conveyance or transfer and mortgage, the Bank is not to be accountable for or charged with any monies until the same shall be actually received in cash. Sales may be made from time to time of parts of the Property to satisfy interest or parts of the Principal Amount overdue, leaving the Principal Amount

or parts thereof to run with interest payable as aforesaid, and the Bank may make any stipulations as to title or evidences or commencement of title or otherwise as the Bank shall deem proper and may buy in or rescind or vary any contract for sale, and on any sale or resale, the Bank shall not be answerable for loss occasioned thereby and for any such purposes may make and execute all agreements and assurances that shall seem advisable or necessary;

- (h) Any sale or lease by the Bank shall be valid as regards the purchaser or lessee, and the remedy of the Mortgagor shall be in damages only against the Bank, and any sale or lease hereunder shall not in any way be affected thereby; and
 - (i) The costs of any sale proceedings hereunder, whether such sale proves abortive or not, incurred in taking, recovering or keeping possession of the Property or in enforcing the personal remedies under this Mortgage or by reason of non-payment or in procuring payment of the Indebtedness shall be payable by the Mortgagor, whether any action or other proceeding has commenced or not.
20. The Doctrine of Consolidation shall apply to this mortgage notwithstanding Section 27 (3) of the Property Law Act or any similar statutory provision, in force, from time to time.

21. Additional Remedies

The Mortgagor hereby agrees with the Bank as follows:

- (a) The Bank may distrain for arrears of interest;
- (b) The Bank may distrain for arrears of principal in the same manner as for arrears of interest and in the manner and on the terms provided by law. It shall and may be lawful for, and the Mortgagor does hereby grant full power, right and license to the Bank to enter, seize and distrain upon the Property, or any part thereof, and by distress warrant to recover by way of rent reserved as in the case of demise of the premises as much of the Indebtedness as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent;
- (c) In default of the payment of the interest hereby secured, the principal hereby secured shall become payable at the option of the Bank;
- (d) That upon default of payment of any Indebtedness payable hereunder at the time and in the manner in this Mortgage provided, in the event of non-observance by the Mortgagor of any covenant, proviso or agreement contained in this Mortgage or in any charge to which this Mortgage is subject, or if the Mortgagor commits or permits any act of waste on the Property or does any other thing by which the value of the Property is or might be diminished (as to which the Bank shall be the sole judge) the whole of the Principal Amount hereby secured and all Indebtedness payable hereunder shall at the option of the Bank forthwith become due and payable;
- (e) In default of immediate payment thereof, the security hereof shall forthwith become enforceable and all of the powers of entering upon the said Property and leasing or selling the same hereby granted to the Bank may be exercised forthwith;

- (f) If the Property is a leasehold interest and if the value of buildings and improvements on the Property should become payable to the Mortgagor or pursuant to the terms of the lease upon the same being paid to the Mortgagor, the amount so paid shall, if the same is by the terms of the lease not required to be expended on the Property, become due on account of the Indebtedness hereby and the balance then owing shall be accelerated so that the Mortgagor shall pay the aforesaid Monthly Instalments in each and every month commencing with the month immediately following the month in which the additional payment is made and continuing until all Indebtedness owing hereunder has been fully repaid;
- (g) If the Property is a leasehold interest, and if the Mortgagor shall refuse or neglect to renew the lease or any renewals thereof granted hereafter, then, and as often as it shall happen, the Bank may, effect such renewals in its own name or otherwise, and every renewal of the lease and the Property thereby demised shall remain and be security to the Bank for the Indebtedness;
- (h) In the event of any breach or non-observance by the Mortgagor of any covenant, proviso or agreement herein contained, the Bank shall have the right, but shall not be bound, to perform or observe such covenant, proviso or agreement and all monies expended by the Bank in so doing shall be payable forthwith by the Mortgagor. For the purpose of performing or observing such covenant, proviso or agreement the Bank may enter upon the Property whenever and as often as may be requisite and shall not by reason thereof be deemed to be a mortgagee in possession; and
- (i) In the event of the Principal Amount advanced hereunder, or any part thereof, being applied to the payment of any charge or encumbrance, the Bank shall be subrogated to all the rights of, and stand in the position of and be entitled to all the equities of, the party so paid, whether such charge or encumbrance has or has not been discharged, and the decision of the Bank as to the validity or amount of any advance or disbursement made under this Mortgage, or of any claim so paid, shall be final and binding on the Mortgagor, and the Bank shall not be charged with any monies receivable or collectible out of the Property except those actually received, and all revenue of the said Property received or collected by the Bank from any source other than payment by the Mortgagor may at the option of the Bank be retained in a suspense account or used in maintaining or insuring or improving the Property, or in payment of Taxes or other charges against the Property, or applied on the mortgage account, and the Bank shall not be under any liability to pay interest on any sums in a suspense account.

22. Notice to Mortgagor

When any notice is given by the Bank pursuant to or in connection with this Mortgage such notice may be given in any manner permitted or provided by the laws applicable thereto or, subject to the laws applicable thereto, may at the option of the Bank be given by leaving it with a grown-up person on the Property if occupied, by placing it on some portion of the Property if unoccupied, by mailing it by prepaid registered post addressed to the Mortgagor at the last known address of the Mortgagor, or by publishing it once in some newspaper published or circulated in the City, Town or County in which the Property is situated; and such notice shall be sufficient although not addressed to any person by name or designation and notwithstanding that any person to be affected thereby may be unborn, unknown, unascertained or under any disability; and subject to the laws from time to time applicable thereto the giving of such notice in the manner aforesaid shall be as effectual as if it had been personally served upon all persons required to be served therewith.

23. Subdivision, Release and Replacement of Property

The Mortgagor and the Guarantor, if any, hereby agree with the Bank that:

- (a) Every part or lot into which the Property is or may hereafter be divided does and shall stand charged with the whole of the Indebtedness hereby secured and no person shall have any right to require the Indebtedness to be apportioned upon or in respect of any such part of lot;
- (b) The rights of the Bank hereunder shall not be prejudiced nor shall the liability of the Mortgagor or any other person liable hereunder be reduced in any way or discharged by the taking of any other security, evidence of indebtedness or covenant for payment of any nature or kind whatsoever either at the time of execution of this Mortgage or at any time hereafter;
- (c) The Bank may from time to time release or discharge the whole or any part or parts of the Property or any other security or any surety for the Indebtedness payable hereunder for such consideration as the Bank shall think proper or without any or any sufficient consideration as it shall deem fit without being accountable for the value thereof or for any monies except those actually received by the Bank and may at any time and from time to time without notice to or any consent or concurrence by any person make any settlement, extension or variation in terms of any obligation hereunder and no such release, discharge, settlement, extension or variation in terms nor any carelessness or neglect by the Bank in asserting its rights nor any other thing whatsoever, including, without in any way limiting the generality of the foregoing, the loss by operation of law of any right of the Bank against the Mortgagor or any other person or the loss or destruction of any security shall in any way release, diminish or prejudice the security of this Mortgage as against any Property remaining undischarged or release or prejudice any covenants herein contained or release or diminish the liability of the Mortgagor or any other person liable hereunder so long as any Indebtedness expressed by this Mortgage to be payable remains unpaid, and no security or surety shall be deemed to be released or discharged save by a formal release or discharge executed by the Bank.

24. Judgements

The taking of a judgement or judgements on any covenant, proviso or agreement herein contained shall not operate as a merger of such covenant, proviso or agreement or affect the Bank's right to interest at the Interest Rate and times aforesaid. Further, any judgement shall provide that interest hereon be computed at the same rate and in the manner provided herein until the judgement shall have been fully paid and satisfied.

25. Discharge

The Bank shall have a reasonable time after receipt of payment of the Indebtedness in full within which to prepare and execute a discharge, and a tender of the Indebtedness shall not entitle the Mortgagor to receive such discharge, and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Bank; and all legal and other expenses for the preparation and execution of such discharge shall be borne by the Mortgagor and any discharge of this Mortgage shall be prepared by the Solicitor of the Bank.

26. Interpretation and Headings

The words "hereto", "herein", "hereof", "hereby", and "hereunder" and similar expressions refer to the whole of this Mortgage and not to any particular paragraph or other portion thereof and extend to and include any and every document supplemental or ancillary hereto or in implement hereof. Words in the singular include the plural and words in the plural include the singular. Words importing the masculine gender include the feminine and neuter genders where the context so requires. Whenever two or more persons are under a liability hereunder such liability shall be both joint and several. The headings do not form part of this document and have been inserted for convenience of reference only. The covenants, agreements, stipulations and provisos herein stated shall be in addition to those granted or implied by statute.

27. Successors and Assigns

Every reference in this document to a party hereto shall extend to and include the heirs, executors, administrators, successors and assigns of such party. This Mortgage shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

28. Condominium Act

If the Property is a strata lot, this Mortgage is made pursuant to the Condominium Act.

29. Appointment of Receiver

If the Mortgagor shall be in default in the observance or performance of any of the terms, conditions, covenants or payments described herein or in any additional or collateral security given by the Mortgagor to the Bank then the Bank may in writing, appoint any person, whether an officer or employee of the Bank or not, to be a receiver of the Property and the rents and profits derived therefrom, and may remove the receiver so appointed and appoint another in his stead. The term "receiver" as used in this Mortgage includes a receiver and manager. The following provisions shall apply to this paragraph:

- (a) The receiver so appointed is conclusively the agent of the Mortgagor, and the Mortgagor shall be solely responsible for the acts or defaults and for the remuneration and expenses of the receiver. The Bank shall not be responsible in any way for any misconduct or negligence on the part of the receiver and may, from time to time, fix the remuneration of the receiver and be at liberty to direct the payment thereof from proceeds collected;
- (b) Nothing contained herein and nothing done by the Bank or by the receiver shall render the Bank a mortgagee in possession or responsible as such;
- (c) All monies received by the receiver, after providing for payment and charges ranking prior to this Mortgage and for all applicable Costs, charges and expenses of or incidental to the exercise of any of the powers of the receiver as hereinafter set forth, shall be applied in or towards satisfaction of the remaining Indebtedness;
- (d) The receiver so appointed shall have power to:

- (i) take possession of and collect rents and profits from the Property charged by this Mortgage and any additional or collateral security granted by the Mortgagor to the Bank and for that purpose may take any proceedings, be they legal or otherwise, in the name of the Mortgagor or otherwise;
 - (ii) carry on or concur in carrying on the business which the Mortgagor is conducting on and from the Property and for that purpose, with court approval where required, borrow money on the security of the Property in priority to this Mortgage; and
 - (iii) lease all or any portion of the Property and for that purpose execute contracts in the name of the Mortgagor which said contracts shall be binding upon the Mortgagor;
- (e) The rights and powers conferred herein are supplemental to and not in substitution for any other rights which the Bank may have from time to time.

30. Guarantee

The Guarantor in consideration of the Bank making the loan to the Mortgagor secured by this Mortgage and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agrees as follows:

- (a) The Guarantor with the Mortgagor, as principal debtor and not as surety will well and truly pay or cause to be paid to the Bank the Indebtedness payable hereunder on the days and times and in the manner herein limited and appointed for the payment thereof;
- (b) To unconditionally guarantee full performance and discharge by the Mortgagor of all of the obligations of the Mortgagor under the provisions of this Mortgage at the times and in the manner herein provided until all Indebtedness has been repaid in full hereunder;
- (c) To indemnify and save harmless the Bank against and from all losses, damages, costs and expenses which the Bank may sustain, incur or be or become liable for by reason of:
 - (i) the failure for any reason whatsoever of the Mortgagor to pay the Indebtedness expressed to be payable pursuant to this Mortgage or to do and perform any other act, matter or thing pursuant to the provisions of this Mortgage; or
 - (ii) any act, action or proceeding of or by the Bank for or in connection with the recovery of the Indebtedness or the obtaining of performance by the Mortgagor or any other person liable hereunder of any other act, matter or thing pursuant to the provisions of this Mortgage;
- (d) That the Bank shall not be obliged to proceed against the Mortgagor or any other person liable hereunder or to enforce or exhaust any security before proceeding to enforce the obligations of the Guarantor herein set out and that enforcement of such obligations may take place before, after or contemporaneously with enforcement of any debt or obligation of the Mortgagor or any other person liable hereunder or the enforcement of any security for any such debt or obligation;

- (e) That the Bank may at any time or times and from time to time release or discharge any part of the Property or any securities, if any, now or hereafter collateral or otherwise to this Mortgage for such consideration as it may see fit and allow the Principal Amount and deferred interest, if any, and interest at the current interest rate or any part or parts thereof to be in arrears and the Bank may deal with this Mortgage and the Mortgagor in whatever manner the Bank shall think proper from time to time without notice to the Guarantor and without the Guarantor's consent;
- (f) The Bank may grant any extensions of time for payment or alter the terms of payment, increase the rate of interest payable under the Mortgage; release the whole or any part of the Mortgagor's Property or other security from this Mortgage; or otherwise deal with the Mortgagor;
- (g) That the Guarantor has read the Mortgage and is fully aware of its terms and in particular the terms of this paragraph 30; and
- (h) Where there is more than one Guarantor, each Guarantor agrees with the Bank to be jointly and severally responsible under this guarantee with the other Guarantors and the Mortgagor.

END OF SET