

**BANK OF MONTREAL**

13th day of June, 2011  
at 12:28 hours under daybook No. 128,846

**NUNAVUT  
STANDARD CHARGE TERMS  
CONVENTIONAL MORTGAGE  
(COMMERCIAL)**

D/Registrar of Land Titles

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

The following set of standard charge terms (together with the schedule attached hereto, the “**Standard Charge Terms**”) shall be deemed to be included in each mortgage or charge in which it is referred to by its filing number except to the extent that the provisions of the Standard Charge Terms are excluded or varied by such mortgage or charge.

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## B. DEFINITIONS

In this set of Standard Charge Terms and in each Mortgage, the following terms shall have the following meanings:

1. “**Applicable Rate**” means:
  - (a) the applicable interest rate specified by the Commitment Agreement; or
  - (b) if the interest rate referred to in subsection (a) is not so specified, the applicable interest rate specified by the Mortgage.
2. “**Commitment Agreement**” means the commitment letter or commitment agreement, if any, between the Mortgagor and the Mortgagee (and any other or others), as amended from time to time, with respect to the Mortgage.
3. “**Controlling Entity**” means any corporation or other entity which on the date of the Mortgage beneficially owned, directly or indirectly, shares, other securities or other equity interests issued by the Mortgagor or a Guarantor which have more than 50% of the total ordinary voting power of all shares, other securities and other equity interests issued by the Mortgagor or such Guarantor.
4. “**Default**” means a default referred to in section H.
5. “**Guarantor**” means a person who guaranteed payment of all or any Indebtedness.
6. “**Indebtedness**” means all present and future indebtedness and liability now or hereafter owing by the Mortgagor to the Mortgagee pursuant to the Commitment Agreement, the Mortgage and the Standard Charge Terms (or pursuant to any one or more of them) whether direct or indirect, absolute or contingent and whether incurred by the Mortgagor alone or together with any other debtor or debtors including all principal, interest, fees and expenses now or hereafter owing by the Mortgagor.
7. “**Insolvency Proceeding**” means a proceeding commenced under the *Companies’ Creditors Arrangement Act*, the *Bankruptcy and Insolvency Act* or any other similar statute.
8. “**Lease**” means a lease, offer to lease or other similar agreement of or with respect to the Mortgaged Land in favour of, or held by the Mortgagor as tenant and referred to in the Mortgage, as such lease, offer to lease or other similar agreement is amended or replaced from time to time.
9. “**Mortgage**” means the applicable registered mortgage or charge (as amended from time to time) in which this set of Standard Charge Terms is incorporated by reference to its filing number (including all Schedules thereto), includes any such mortgage or charge registered electronically or otherwise and includes such mortgage or charge whether or not any provision of the Standard Charge Terms is excluded or varied.
10. “**Mortgaged Land**” means the real property described in the Mortgage, all appurtenances thereto and all estates and interests therein, and includes all buildings, plant, machinery, crops, erections and improvements, fixed or otherwise, present or future, built, grown, placed or put thereon including all fences, heating equipment, plumbing equipment, antennae, radiators, mirrors, air-conditioning equipment, ventilating equipment, fire alarm and protective systems, lighting and lighting fixtures, hay racks, barn fixtures, milking machine equipment, water tanks, pumps and windmills, water bowls and pipes, feed boxes, litter carriers and tracks, mobile homes affixed to the real property, furnaces, boilers, oil burners, stokers, water heating equipment, cooking and refrigeration equipment, window blinds, floor coverings, storm windows, storm doors, window screens, door screens, shutters and awnings, all apparatus and equipment appurtenant thereto, and all other fixtures and accessions of any kind or nature.
11. “**Mortgagee**” means the mortgagee or chargee referred to in the Mortgage and its successors and assigns.

12. “**Mortgagor**” means the person or persons identified as the mortgagor or chargor in the Mortgage and his, her, its or their respective heirs, executors, administrators, personal representatives, successors and assigns.
13. “**Other Encumbrances**” means all statutory liens, construction liens, mechanics’ liens, builders’ liens, other liens, executions, mortgages, charges, and other encumbrances which charge or otherwise affect or could affect the Mortgaged Land but excludes the Mortgage.
14. “**Permitted Prior Mortgage**” means a mortgage or charge of the Mortgaged Land which ranks in priority to the Mortgage and which the Mortgagee has approved in writing.
15. “**Receiver**” means a receiver, receiver and manager or other similar person.
16. “**Schedule**” means a schedule to the Mortgage.
17. “**Taxes**” means all taxes, rates and assessments, municipal, provincial, federal or otherwise, with respect to the Mortgaged Land.

### **C. OPERATION OF THE MORTGAGE**

1. *Charge of Mortgaged Land.* In consideration of other valuable consideration and a loan advance made by the Mortgagee to the Mortgagor (the receipt and sufficiency of which are acknowledged by the Mortgagor), the Mortgagor hereby mortgages and charges the Mortgaged Land to and in favour of the Mortgagee as security for payment to the Mortgagee of all Indebtedness and as security for the observance and performance by the Mortgagor of all other obligations of the Mortgagor pursuant to or in respect of the Commitment Agreement, the Mortgage or the Standard Charge Terms. Subject to the provisions of the Mortgage, the Mortgagor releases to the Mortgagee, all the Mortgagor’s claims upon the Mortgaged Land.

2. *Payment of Principal and Interest.* The amount of the principal money is the principal amount shown by the Mortgage. The Mortgagor shall, unless otherwise provided by the Commitment Agreement or the Mortgage, pay the principal amount of the Mortgage and interest thereon as follows:

- (a) The Mortgagor shall, on the interest adjustment date, if any, set out in the Mortgage, pay interest at the Applicable Rate on the principal amount of the Mortgage or such part thereof advanced by the Mortgagee to the Mortgagor from the date of each such advance until such interest adjustment date, provided that, at the Mortgagee’s request, the Mortgagor shall pay interest monthly on the first day of each month at the Applicable Rate on the principal amount or part thereof advanced by the Mortgagee to the Mortgagor from the date of each such advance until such interest adjustment date. The Mortgagee may deduct any such unpaid interest from any principal amount advanced.
- (b) The Mortgagor shall pay the principal amount of the Mortgage and interest thereon at the Applicable Rate from and including the interest adjustment date, if any, set out in the Mortgage (or, if there is no interest adjustment date set out in the Mortgage, from the date of the first advance under the Mortgage) in equal instalments in the applicable amount set out in the Mortgage and on the applicable dates set out in the Mortgage, commencing on the first payment date set out in the Mortgage and ending on the last payment date set out in the Mortgage, and the Mortgagor shall pay the balance, if any, of the principal amount, interest and all other Indebtedness on the balance due date (or maturity date) set out in the Mortgage (unless such amounts are payable hereunder at an earlier date).

3. *Restriction on Voluntary Prepayments.* The Mortgagor shall not be entitled to prepay voluntarily any principal amount except to the extent expressly permitted by the Commitment Agreement or the Mortgage.

4. *Accrual and Calculation of Interest.* Interest shall accrue at the Applicable Rate on each part of the Indebtedness from the date such part is incurred to the date such part is paid to the Mortgagee in full. Unless otherwise specified by the Commitment Agreement or the Mortgage,

interest shall, both before and after Default, be calculated at the Applicable Rate not in advance, with the frequency set out in the calculation period section of the Mortgage.

5. *Divided Parts of Mortgaged Land.* Every part of the Mortgaged Land into which the Mortgaged Land may hereafter be divided by a plan of subdivision or otherwise shall continue to be charged with payment of all Indebtedness but the Mortgagee may discharge any part or parts of the Mortgaged Land with or without sufficient consideration and without releasing the Mortgagor from the Mortgage and no person shall have any right to require the Indebtedness to be apportioned between or among such parts.

6. *Application of Amounts Paid.* Any and all amounts received by the Mortgagee with respect to Indebtedness before a Default shall, unless otherwise specified by the Mortgagee in writing, be applied firstly to reduce compound interest, secondly to reduce interest (other than compound interest), thirdly to reduce principal and fourthly to reduce any other Indebtedness. Any and all amounts received by the Mortgagee with respect to Indebtedness after a Default (including any and all amounts received from any security held by the Mortgagee) shall be applied by the Mortgagee in the manner determined by the Mortgagee in its sole discretion.

7. *Discharge of Mortgage.* If the Mortgagor shall duly pay to the Mortgagee all Indebtedness and the Mortgagee is not then obligated to extend any credit to the Mortgagor, the Mortgagor may request from the Mortgagee a discharge of the Mortgage and, upon delivery by the Mortgagee to the Mortgagor of a discharge of the Mortgage, the Mortgage shall terminate and cease to operate; provided that the Mortgage shall not terminate or cease to operate while any Indebtedness remains unpaid or while the Mortgagee is obligated to extend any credit to the Mortgagor only because, at any prior time or times, all Indebtedness had been paid in full. The Mortgagee shall not be obligated to deliver any partial discharge of the Mortgage.

8. *Consolidation of Mortgages.* To the extent permitted by law, the doctrine of consolidation shall apply with respect to *inter alia* the Mortgage.

#### **D. COVENANTS, REPRESENTATIONS AND WARRANTIES OF MORTGAGOR**

1. *Payment of Principal and Interest.* The Mortgagor shall pay to the Mortgagee when due all Indebtedness without deduction or set-off of any kind. The Mortgagor expressly agrees not to fail to pay any Indebtedness when due and not to reduce the amount of any due payment of any Indebtedness as a result, or in respect of any existing or future claim by the Mortgagor against the Mortgagee or against any other person whether such claim relates to the Commitment Agreement, any or all Indebtedness, the Mortgage, any other agreement between the Mortgagor and the Mortgagee, any other transaction or any other agreement or matter whatsoever.

2. *Observance and Performance of Other Obligations.* The Mortgagor shall duly and punctually observe and perform all the Mortgagor's existing and future obligations pursuant to the Commitment Agreement, the Mortgage and the Standard Charge Terms.

3. *Payment of Taxes.* The Mortgagor shall promptly pay all Taxes as they become due and, within one month after the date fixed for the payment of the last installment of Taxes in each year, shall deliver to the Mortgagee a receipted tax bill showing payment in full of all such Taxes payable during such year. If the Mortgagor fails to pay any Taxes as they become due, the Mortgagee may, at its option, pay the whole or any part of such Taxes. The amounts so paid by the Mortgagee shall be payable forthwith by the Mortgagor to the Mortgagee with interest thereon at the Applicable Rate, shall be a part of the Indebtedness and shall be secured by the Mortgage.

4. *Good Title and Free From Encumbrances.* The Mortgagor represents and warrants to the Mortgagee that the Mortgagor is the legal and beneficial owner of, and has good, absolute and indefeasible title and estate in fee simple to the Mortgaged Land (or the leasehold interest therein if section E applies), free of any Other Encumbrances except any Permitted Prior Mortgage, statutory liens that secure payment of amounts not in arrears, public utilities easements or minor easements or restrictive covenants that do not impair the value, marketability or use of the Mortgaged Land or other encumbrances consented to by the Mortgagee in writing, and free of any reservations, limitations, provisos or conditions whatsoever except those contained in the original grant thereof, if any, from the Crown; the Mortgagor has good right, full power and

lawful and absolute authority to mortgage and charge the Mortgaged Land (or, if section E applies, its leasehold interest therein) to the Mortgagee in accordance with the provisions of the Mortgage.

5. *Insurance.* The Mortgagor shall maintain, in form, substance and amount and with insurers satisfactory to the Mortgagee, all insurance required by the Mortgagee from time to time with respect to the Mortgaged Land (including boiler, property, public liability, rental, environmental and business interruption insurance and insurance covering all crops grown on the Mortgaged Land insuring such crops against damage by hail and against perils covered by all-risk crop insurance). The Mortgagor shall deliver to the Mortgagee, from time to time at the Mortgagee's request, certificates of insurance and certified copies of such insurance policies showing all loss payable to the Mortgagee as first mortgagee (subject to the interests of the holder of any Permitted Prior Mortgage) and loss payee and containing a mortgage clause satisfactory to the Mortgagee. As additional and separate security for payment of all Indebtedness, the Mortgagor hereby assigns to the Mortgagee all the Mortgagor's present and future interests in and to all such present and future insurance policies and all proceeds therefrom. The Mortgagor shall not repair any damage using proceeds of any insurance without the Mortgagee's prior written consent and the Mortgagee may, at its discretion, apply any and all insurance proceeds to reduce Indebtedness. If the Mortgagor fails to maintain insurance required by the Mortgagee, the Mortgagee may arrange insurance with respect to the Mortgaged Land, the Mortgagor shall pay to the Mortgagee, on demand by the Mortgagee, all amounts paid by the Mortgagee to effect such insurance and the Mortgagor shall pay interest thereon at the Applicable Rate; and all such amounts owing by the Mortgagor shall be part of the Indebtedness and secured by the Mortgage. The Mortgagor shall, forthwith on the occurrence of any loss or damage, furnish at the Mortgagor's own expense all necessary proofs and do all necessary acts to enable the Mortgagee to obtain payment of the insurance monies. Any insurance monies received may, at the option of the Mortgagee, to the extent permitted by law, be applied to rebuild or repair the premises on the Mortgaged Land or be paid to the Mortgagor or any other person appearing by the registered title to be or to have been the owner of the Mortgaged Land, or be applied to pay Indebtedness whether or not then due, despite any law, equity or statute to the contrary. The Mortgagor, to the extent permitted by law, hereby waives any statutory or other right it may have to require any insurance proceeds to be applied in any particular manner.

6. *Payment of Other Encumbrances.* The Mortgagor shall promptly pay when due all amounts now or hereafter owing pursuant to or with respect to any Other Encumbrances and shall deliver to the Mortgagee, at the Mortgagee's request, evidence showing payment in full of all such amounts. If the Mortgagor fails to pay any Other Encumbrances when due, the Mortgagee may, at its option, pay the whole or any part of any present or future Other Encumbrances. The amounts so paid shall be payable forthwith by the Mortgagor to the Mortgagee with interest thereon at the Applicable Rate, shall be a part of the Indebtedness and shall be secured by the Mortgage. In the event the Mortgagee pays any Other Encumbrance, it shall be entitled to all the equities, rights and securities of the person or persons so paid and to obtain an assignment of such Other Encumbrance so paid and of any right to payment and is hereby authorized to retain any discharge thereof without registration for so long as it may think fit to do so.

7. *Payment of Expenses.* The Mortgagor shall, on demand by the Mortgagee, pay all costs, charges, expenses (including legal fees as between a solicitor and his or her own client), commissions and fees which may be incurred by the Mortgagee in negotiating any loan or loans secured by the Mortgage, investigating the title to the Mortgaged Land, preparing and registering the Mortgage and other documents, administering any loan or loans made by the Mortgagee to the Mortgagor, inspecting the Mortgaged Land, collecting any Indebtedness, taking any proceeding in connection with or to collect any Indebtedness, taking and maintaining possession of the Mortgaged Land, maintaining and repairing the Mortgaged Land, and taking any other enforcement proceedings. The Mortgagor shall deliver to the Mortgagee, at the Mortgagee's request, evidence showing payment in full of all such amounts. If the Mortgagor fails to pay any such amounts as they become due, the Mortgagee may, at its option, pay any such amounts and the amounts so paid by the Mortgagee shall be payable forthwith by the Mortgagor to the Mortgagee with interest thereon at the Applicable Rate, shall be a part of the Indebtedness and shall be secured by the Mortgage.

8. *Compliance with Laws.* The Mortgagor represents and warrants to the Mortgagee that, as at the date of the Mortgage, the Mortgagor has complied with, and the Mortgagor agrees that it shall comply with all laws, by-laws and regulations affecting the Mortgaged Land and all orders

and decisions of any governmental authority, governmental agency or court having jurisdiction affecting the Mortgaged Land (including all such laws, by-laws, regulations, orders and decisions relating to the environment or to residential or other property, including those relating to the amount of rent charged by the Mortgagor with respect to any part of the Mortgaged Land). The Mortgagor shall, at the Mortgagor's expense, promptly and in good and workmanlike manner make all improvements, alterations, clean-ups and repairs and effect any change in use that may be required from time to time to so comply.

9. *Maintain in Good Repair and Avoid Waste.* The Mortgagor represents and warrants to the Mortgagee that, as at the date of the Mortgage, all buildings, erections, equipment, machinery and improvements on the Mortgaged Land are in good condition and repair and that all noxious weeds have been eradicated from the Mortgaged Land. The Mortgagor shall maintain all buildings, erections, equipment, machinery and improvements on the Mortgaged Land in good condition and repair to the satisfaction of the Mortgagee, shall eradicate all noxious weeds from the Mortgaged Land and shall not permit waste to be committed or suffered on the Mortgaged Land or any part thereof. The Mortgagee or its agent shall be entitled, from time to time, to enter on the Mortgaged Land to inspect the Mortgaged Land and to undertake any tests (including intrusive environmental tests) required by the Mortgagee. If the Mortgagor neglects to keep the Mortgaged Land or any buildings, erections, equipment, machinery or improvements on the Mortgaged Land in good condition and repair, fails to eradicate noxious weeds from the Mortgaged Land or commits or permits any act of waste on the Mortgaged Land (as to which the Mortgagee shall be the sole judge), or fails to comply with section D.8., the Mortgagee or its agent may enter upon the Mortgaged Land and make such repairs and undertake such work and take such action as the Mortgagee deems necessary. All costs of such inspection, testing, repairs, work and action shall be payable forthwith by the Mortgagor to the Mortgagee with interest thereon at the Applicable Rate, shall be a part of the Indebtedness and shall be secured by the Mortgage.

10. *Environmental Representation and Indemnity.* The Mortgagor represents and warrants to the Mortgagee that there has not occurred, after the date the Mortgagor acquired an interest in the Mortgaged Land, any spill, leak, contamination or other material environmental problem affecting the Mortgaged Land or any part thereof (other than any such spill, leak, contamination or other environmental problem which has been remedied). The Mortgagor shall indemnify and save harmless the Mortgagee and any Receiver of the Mortgaged Land from any and all expenses and damages incurred or suffered by the Mortgagee or such Receiver as a result, or in respect of any spill, leak, contamination or other environmental problem affecting the Mortgaged Land or any part thereof. This indemnity shall survive the payment of all Indebtedness and the satisfaction, discharge or enforcement of the Mortgage or any other security.

11. *No Alterations or Change in Use.* The Mortgagor shall not, without the prior written consent of the Mortgagee, make, or permit to be made, any alterations or additions to the Mortgaged Land or any building thereon or change the Mortgagor's use of the Mortgaged Land or any building thereon and the Mortgagor shall not allow the Mortgaged Land to be unoccupied or unused.

12. *No Unapproved Charge or Encumbrance by Mortgagor.* The Mortgagor shall not, without the Mortgagee's prior written consent, mortgage, charge, lien or encumber the Mortgaged Land or any part thereof or any interest therein or permit any Other Encumbrance to remain thereon except for any Permitted Prior Mortgage, statutory liens that secure payment of amounts not in arrears and public utilities easements or minor easements or restrictive covenants that do not impair the value, marketability or use of the Mortgaged Land.

13. *Change in Ownership or Spousal Status.* Upon any change or event affecting any of the following, namely:

- (a) the spousal status of the Mortgagor, if the Mortgagor is an individual;
- (b) the qualification of the Mortgaged Land as a matrimonial home; or
- (c) the ownership of the Mortgaged Land,

the Mortgagor shall forthwith advise the Mortgagee accordingly in writing and furnish the Mortgagee with full particulars thereof, the intention being that the Mortgagee shall be kept fully

informed of the names and addresses of the owner or owners of the Mortgaged Land and of any spouse who is not an owner but who may have a legal right of possession of or interest in the Mortgaged Land. The Mortgagor shall furnish the Mortgagee with such evidence in connection with any of subsections (a), (b) and (c) of this provision as the Mortgagee may from time to time request.

14. *Expropriation.* If the Mortgaged Land or any part thereof is condemned or expropriated to an extent which, in the Mortgagee's sole discretion, materially affects the Mortgagee's security, all Indebtedness shall, at the option of the Mortgagee, be deemed to have become due and payable on the day before such condemnation or expropriation, and interest shall continue to accrue thereon, at the Applicable Rate, until the Mortgagee has been paid all Indebtedness. The Mortgagor shall pay to the Mortgagee from any condemnation or expropriation proceeds the full amount thereof, to be applied by the Mortgagee to reduce Indebtedness.

15. *Power of Attorney.* The Mortgagor hereby irrevocably appoints the Mortgagee or any Receiver appointed by the Mortgagee under or pursuant to the Mortgage or by any order of a court of competent jurisdiction, as the Mortgagor's attorney for all purposes to take any and all action deemed appropriate by the Mortgagee or such Receiver after the occurrence of a Default.

16. *Further Assurances.* The Mortgagor shall (and shall cause each person having or claiming to have an estate, right, title or interest in or to the Mortgaged Land to) at any time and from time to time, at the Mortgagee's request, do, execute and deliver or cause to be made, executed and delivered to the Mortgagee such further and other reasonable acts, deeds, conveyances, charges and assurances as may be required by the Mortgagee to fully and effectually carry out the intention and meaning of the Mortgage and the provisions included in the Mortgage and the reasonable cost of such further assurances shall be part of the Indebtedness and secured by the Mortgage.

17. *Business Purposes Only.* The Mortgagor shall use only for business purposes any amounts loaned by the Mortgagee to the Mortgagor and secured by the Mortgage.

18. *No Registration of Condominiums or Strata Title Developments.* The Mortgagor shall not, without the Mortgagee's prior written consent, register any condominium or strata title development with respect to all or part of the Mortgaged Land or any declaration or description with respect thereto and the Mortgagee shall not, unless otherwise provided by the Commitment Agreement, have any obligation to provide such consent.

19. *Delivery of Information.* The Mortgagor shall deliver to the Mortgagee, promptly at the Mortgagee's request, all financial statements and other information as the Mortgagee may request from time to time with respect to the Mortgagor, a Guarantor or the Mortgaged Land.

20. *No Litigation or Other Proceedings.* The Mortgagor represents and warrants that, as at the date of the Mortgage, there is no application, litigation, proceeding or investigation outstanding or, to the Mortgagor's knowledge, pending or threatened, against the Mortgagor or any Guarantor or with respect to the Mortgaged Land or any part thereof including any application, litigation, proceeding or investigation in respect of residential or other property by-laws or regulations. The Mortgagor shall notify the Mortgagee in writing of any such application, litigation, proceeding or investigation commenced after the date of the Mortgage, promptly after such commencement.

21. *Mortgagor a Canadian Resident.* The Mortgagor represents and warrants that, as at the date of the Mortgage, it is not a non-resident of Canada for purposes of the Income Tax Act and agrees that the Mortgagor shall not, without the Mortgagee's prior written consent, become a non-resident of Canada.

22. *Good Management of Mortgaged Land.* The Mortgagor shall at all times cause the Mortgaged Land to be managed in a commercially reasonable manner by the Mortgagor or by a property manager satisfactory to the Mortgagee, acting reasonably.

23. *Abutting Real Property.* The Mortgagor shall not, without the Mortgagee's prior written consent, acquire any real property which abuts the Mortgaged Land. If the Mortgagee gives such consent, the Mortgagor shall, at the Mortgagee's request, deliver to the Mortgagee a mortgage or



charge of such abutting real property and of the Mortgaged Land in form and substance satisfactory to the Mortgagee.

#### **E. MORTGAGE OF LEASEHOLD INTEREST**

If the Mortgagor is not the owner of the Mortgaged Land in fee simple but is the owner of a leasehold interest in the Mortgaged Land as tenant, or as an assignee or successor of a tenant, pursuant to a Lease, the following provisions shall apply:

1. *Representations and Warranties.* The Mortgagor represents and warrants to the Mortgagee that, as at the date of the Mortgage:

- (a) the Lease is a good, valid and subsisting lease and has not been surrendered, forfeited or terminated or, except as specified in the Mortgage, amended, and the rents, covenants and provisions therein reserved and contained have been duly paid, performed and observed by the Mortgagor up to the date of the Mortgage; and
- (b) the Mortgagor has good right and full, lawful and absolute authority to charge, mortgage, demise and sublet the Mortgaged Land in accordance with the Mortgage and any consent thereto required of the applicable landlord has been obtained.

2. *Covenants Relating to Lease.* The Mortgagor agrees with the Mortgagee as follows:

- (a) The Mortgagor shall at all times fully perform and comply with all the obligations of the Mortgagor under or with respect to the Lease, or imposed on, assumed by or agreed to by the Mortgagor pursuant to any Other Encumbrances and, if the Mortgagor fails to do so, the Mortgagee may (but shall not be obliged to) take any action the Mortgagee deems necessary or desirable to prevent or to cure any default by the Mortgagor in the performance of or compliance with any such obligations. The Mortgagor shall promptly provide to the Mortgagee a copy of any notice the Mortgagor receives from the landlord, any prior mortgagee or encumbrancer, any claimant of any of the Other Encumbrances or any other person under or relating to the Lease of the Mortgaged Land. Upon receipt by the Mortgagee from the Mortgagor, the landlord, any prior mortgagee or encumbrancer, any claimant of any of the Other Encumbrances or any other person of any notice, including a notice of default, the Mortgagee may rely thereon and take any action with respect to such notice as may be required in the Mortgagee's sole discretion, including to cure a default even though the existence of such default or the nature thereof may be questioned or denied by or on behalf of the Mortgagor and the Mortgagee shall have the absolute and immediate right to enter in and upon the Mortgaged Land or any part thereof to such extent and as often as the Mortgagee, in its sole discretion deems necessary or desirable, in order to prevent or to cure any such default. The Mortgagee may pay and expend such amounts as the Mortgagee in its sole discretion deems necessary for any such purpose, and the amounts so paid shall be payable by the Mortgagor to the Mortgagee on demand by the Mortgagee with interest thereon at the Applicable Rate, and shall be a part of the Indebtedness and be secured by the Mortgage.
- (b) If the Mortgage is outstanding at the expiration of the term of the Lease and the Mortgagor refuses or neglects to exercise the Mortgagor's right, if any, to renew or extend the term of the Lease or refuses to pay any fees, costs, charges or expenses payable upon any such renewal or extension, the Mortgagee may effect such renewal or extension in the name of the Mortgagor or otherwise, and every such renewed or extended Lease shall remain and be mortgaged and charged pursuant to the Mortgage in accordance with the Mortgage.
- (c) From and after the execution and delivery of the Mortgage, the Mortgagor shall stand possessed of the Mortgaged Land for the remainder of the Lease in trust for the Mortgagee, and shall exercise any right to renew or extend the term of the Lease or to assign the Lease as the Mortgagee may direct, but subject to the Mortgagor's right of redemption under the Mortgage. The Mortgagor hereby

irrevocably appoints the Mortgagee as the Mortgagor's attorney for and on behalf of the Mortgagor to exercise any such renewal or extension right and to assign the Lease and convey the leasehold interest in the Mortgaged Land and the reversion thereof as the Mortgagee shall at any time direct after the occurrence of a Default and, in particular, upon any sale made by the Mortgagee under any power of sale contained in the Mortgage or granted by statute to assign the Lease and convey the Mortgagor's leasehold interest in the Mortgaged Land and the reversion to a purchaser. The Mortgagee may at any time remove the Mortgagor or any other person from being a trustee of the Lease under the above declaration of trust and appoint a new trustee or trustees.

- (d) The Mortgagor shall not surrender, terminate, amend or modify the Lease or agree to do so without the prior written consent of the Mortgagee, which the Mortgagee may withhold in its absolute discretion. No release or forbearance of any of the Mortgagor's obligations under the Lease or under any Other Encumbrance shall release the Mortgagor from any of the Mortgagor's obligations under the Mortgage.
- (e) Unless the Mortgagee expressly consents in writing, the title in fee simple to the Mortgaged Land and the leasehold estate shall not merge but shall always remain separate and distinct, notwithstanding the union of said estates by purchase or otherwise.

3. *Last Day of Term Excepted.* Despite any other provision of the Mortgage, the last day of the term of the Lease and of any renewal or extension thereof and of any agreement therefor now held or hereafter acquired by the Mortgagor shall be excepted out of the mortgage, charge and demise contained in the Mortgage.

4. *Charge by way of Sublease.* Despite section C.1. and any other provision of the Mortgage (except section E.3.), the Mortgagor mortgages and charges, by way of sublease, the Mortgagor's leasehold interest in the Mortgaged Land pursuant to the Lease, the mortgages and charges contained in the Mortgage shall be by way of sublease and the Mortgagee shall not have any obligation or liability to the landlord or any other person pursuant to or in respect of the Lease.

5. *Leasehold Interests.* Wherever any reference is made in the Mortgage to any right of the Mortgagee to sell, transfer, assign, lease, sublease, alienate or otherwise deal with the Mortgaged Land, such reference shall be deemed, subject to section E.3., to relate to the existing and future rights and interests of the Mortgagor in the Mortgaged Land pursuant to the Lease.

#### **F. ASSIGNMENT OF LEASES AND RENTS**

If the Mortgagor or any predecessor of the Mortgagor grants or has granted any lease, offer to lease, tenancy agreement or other similar agreement of all or any part of the Mortgaged Land as landlord, the following provisions shall apply:

1. *Assignment.* As additional and separate security for payment of all Indebtedness, the Mortgagor hereby assigns, transfers and sets over to the Mortgagee, all the Mortgagor's rights and interests as landlord in all existing and future leases, tenancy agreements, offers to lease and other similar agreements with respect to all or part of the Mortgaged Land, and all rents, incomes, profits and other amounts now or hereafter arising from or out of all or part of the Mortgaged Land or any building, improvement, fixture or part thereof forming part of the Mortgaged Land.

2. *Separate Assignments.* The assignment of each of the foregoing and of each of the rents, incomes, profits and other amounts by the Mortgagor to the Mortgagee pursuant to section F.1. shall be deemed to be a separate assignment so that the Mortgagee in its discretion may exercise its rights in respect of any or all of such leases, offers to lease, tenancy agreements or other similar agreements or the rents, incomes, profits or other amounts paid or payable thereunder.

3. *Collection by Mortgagor before Default.* Until there occurs a Default, the Mortgagor may collect, retain and apply all rents, incomes, profits and other amounts and deal with all leases, offers to lease, tenancy agreements and other similar agreements from time to time in accordance with sound business practice.

4. *No Liability of Mortgagee and Indemnity by Mortgagor.* Nothing herein shall obligate the Mortgagee to assume or perform (and nothing herein shall impose on the Mortgagee) any liability or obligation of the Mortgagor to any tenant or other person pursuant to or in respect of any lease, offer to lease, tenancy agreement, other similar agreement or otherwise and the Mortgagor hereby indemnifies and saves harmless the Mortgagee from any and all claims with respect thereto, provided that the Mortgagee may, at its sole option, assume or perform any such obligations as it considers necessary or desirable.

5. *Re-assignment.* The Mortgagee may, at any time without further request or agreement by the Mortgagor, reassign to the Mortgagor, or the Mortgagor's heirs, administrators, successors or assigns, any or all of the collateral referred to in section F.1.

6. *Application by Mortgagee.* The Mortgagee's obligations with respect to any amount collected by the Mortgagee shall be discharged by the application of such amount to reduce Indebtedness.

7. *Not Mortgagee in Possession.* Nothing contained herein shall have the effect of making the Mortgagee a mortgagee in possession of the Mortgaged Land.

#### **G. CONDOMINIUM OR STRATA TITLE DEVELOPMENT PROVISIONS**

If the Mortgaged Land is or includes one or more condominium units or strata title units, the following provisions shall apply:

1. *Compliance with Requirements.* The Mortgagor shall observe and perform each of the covenants and provisions required to be observed and performed pursuant to the Mortgage, all applicable statutes governing or affecting condominiums or strata title developments, and the declaration, description, by-laws and rules, as amended from time to time, of the applicable condominium corporation or strata corporation.

2. *Common Expense Payments.* The Mortgagor shall pay promptly when due any and all unpaid condominium or strata development fees, common expenses, common element expenses, assessments, levies, instalments, payments or any other amounts due to the applicable condominium corporation or strata corporation or any agent thereof by the Mortgagor and, at the Mortgagee's request, deliver to the Mortgagee evidence of the payment thereof.

3. *Right of Mortgagee to Pay.* If the Mortgagor does not pay when due any condominium or strata development fees, common expenses or other amounts referred to in section G.2., the Mortgagee may (but shall not be obliged to) pay such amounts, the Mortgagor shall forthwith pay such amounts to the Mortgagee with interest thereon at the Applicable Rate, and all such amounts owing by the Mortgagor to the Mortgagee shall be a part of the Indebtedness and secured by the Mortgage.

4. *Voting by Mortgagee.* The Mortgagor hereby irrevocably authorizes the Mortgagee to exercise the rights of the Mortgagor as an owner of the Mortgaged Land to vote or to consent in all matters relating to the affairs of the condominium corporation or strata corporation or arising under applicable law or the declaration or by-laws of the condominium or strata corporation, provided that:

- (a) in any case where the Mortgagee is entitled to receive and does receive notice of a meeting of owners, the Mortgagee may notify the condominium or strata corporation and the Mortgagor of its intention to exercise the right of the owner to vote or to consent at such meeting at least two days before the date specified in the notice for the meeting, failing which the Mortgagor may exercise such right to vote or consent at such meeting;
- (b) the Mortgagee shall not, by virtue of the giving to the Mortgagee of the right to vote or consent, be under any obligation to vote or consent or to protect the interests of the Mortgagor, and the Mortgagee shall not be responsible for any exercise or failure to exercise the right to vote or consent; and
- (c) nothing herein contained, including the exercise by the Mortgagee of the right to vote or consent, shall constitute the Mortgagee a mortgagee in possession.

## H. DEFAULT

The Mortgagor shall be in default of the Mortgage and a Default shall occur pursuant to the Mortgage if:

1. the Mortgagor fails to pay any Indebtedness when due;
2. the Mortgagor or a Guarantor fails to comply with any obligation of the Mortgagor or the Guarantor pursuant to or in respect of the Commitment Agreement or the Mortgage or any existing or future note or other agreement delivered by the Mortgagor and the Guarantors (or any of them) to the Mortgagee or between the Mortgagor and the Guarantors (or any of them) and the Mortgagee;
3. the Mortgagor fails to comply with any obligation of the Mortgagor pursuant to or in respect of any Permitted Prior Mortgage or any Other Encumbrance;
4. any representation or warranty made by the Mortgagor or a Guarantor in the Mortgage, the Commitment Agreement, any other agreement between the Mortgagor and the Guarantors (or any of them) and the Mortgagee, or any loan or credit application made in connection with any Indebtedness was untrue when made;
5. a Receiver is appointed of all or any part of the Mortgaged Land;
6. any construction lien, mechanics' lien or builders' lien is registered against all or any part of the Mortgaged Land and is not discharged within seven days after a request by the Mortgagee that such lien be discharged;
7. all or any part of the Mortgaged Land is condemned or expropriated;
8. the Mortgagor or a Guarantor becomes bankrupt or insolvent;
9. a petition in bankruptcy is filed against the Mortgagor or a Guarantor;
10. the Mortgagor or a Guarantor makes a proposal in bankruptcy or files a notice of intention to make a proposal in bankruptcy;
11. the Mortgagor or a Guarantor makes an application as a debtor in any Insolvency Proceeding or any other person makes an application against the Mortgagor or a Guarantor in any Insolvency Proceeding;
12. the Mortgagor sells, transfers or disposes of in any other manner the Mortgaged Land, any part thereof or any interest therein (unless the Mortgagee has approved in writing such sale, transfer or other disposition);
13. an execution, judgment or order of execution is filed or made against the Mortgaged Land or any part thereof and remains unsatisfied for a period of ten days;
14. the Mortgagor fails to pay when due any amount owing by the Mortgagor to the applicable condominium corporation or strata corporation or any agent thereof referred to in section G.2.; or
15. the Mortgagor or a Guarantor is not an individual and a change in control of the Mortgagor or such Guarantor occurs without the prior written consent of the Mortgagee; for the purposes hereof, a change in control of the Mortgagor or a Guarantor shall be deemed to occur if there occurs one or more sales, transfers or other dispositions of the beneficial ownership existing on the date of the Mortgage in the aggregate of:
  - (a) shares, other securities or other equity interests issued by the Mortgagor or such Guarantor which have more than 50% of the total ordinary voting power of all shares, other securities and other equity interests issued by the Mortgagor or such Guarantor; or

- (b) shares, other securities or equity interests issued by any Controlling Entity which have more than 50% of the total ordinary voting power of all shares, other securities and other equity interests issued by such Controlling Entity.

## **I. REMEDIES OF MORTGAGEE**

1. *Acceleration and Termination of Obligation to make Loan Advances.* Despite any other provision of the Mortgage, upon the occurrence of a Default, all Indebtedness (or any part thereof determined by the Mortgagee) shall, at the Mortgagee's option, forthwith become due and payable, the Mortgage shall become enforceable and the Mortgagee shall not be obligated to make any further loan advance to the Mortgagor.

2. *Right of Entry.* Upon the occurrence of a Default and after obtaining any court order required by law, the Mortgagee may, at any time or times without the concurrence of any person, enter upon, take and maintain possession of the Mortgaged Land, inspect, complete the construction of, repair or maintain any buildings or other improvements thereon, lease, collect the rents, profits and other amounts derived from the Mortgaged Land and manage the Mortgaged Land as the Mortgagee may deem fit without hindrance or interruption by the Mortgagor or any other person, and all reasonable costs, charges and expenses, including legal fees on a solicitor and his or her own client basis, and disbursements, commissions and allowances for the time and services of any employees of the Mortgagee or any agent of the Mortgagee or other persons appointed for any such purpose shall be forthwith payable by the Mortgagor to the Mortgagee with interest thereon at the Applicable Rate, shall be a part of the Indebtedness and shall be secured by the Mortgage. Upon the occurrence of a Default and after obtaining any court order required by law, the Mortgagee may also enforce its security against all crops growing on the Mortgaged Land, the Mortgagee may, at any time or times without the concurrence of any person, enter upon the Mortgaged Land for the purpose of cutting, harvesting and removing such crops and for otherwise farming and working the Mortgaged Land, the Mortgagee may bring on the Mortgaged Land all machines, equipment and instruments necessary for such purposes, and the Mortgagee may use all yards, barns, granaries, grain bins or all other improvements and equipment located on the Mortgaged Land to carry out any of such activities.

3. *Sale.* Upon the occurrence of a Default which continues for at least fifteen days and after obtaining any court order required by law, the Mortgagee may, on at least thirty-five days' notice, sell the Mortgaged Land or any part or parts thereof, in accordance with the following provisions:

- (a) notice shall be given to such persons and in such manner and form and within such time as provided by law; provided that, in the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable, notice may be effectually given by leaving it with a person on the Mortgaged Land, if occupied, or by placing the same on some portion thereof, if unoccupied or, at the option of the Mortgagee, by mailing it by registered mail in a notice or letter addressed to the Mortgagor at the Mortgagor's last known address, or by publishing it once in a newspaper published in the area or region in which the Mortgaged Land is situated;
- (b) such notice shall be sufficient although not addressed to any person or persons by name or designation, and notwithstanding that any person to be affected thereby may be unknown, unascertained or under any disability;
- (c) sale of the Mortgaged Land may be by public auction or private sale or partly by one and partly by the other, for such price or prices as can reasonably be obtained therefor and on such terms as to credit or otherwise and with such conditions of sale and stipulations as to title or evidence of title or otherwise as the Mortgagee in its sole discretion shall deem appropriate;
- (d) in the event of any sale on credit or for part cash and part credit, the Mortgagee shall not be accountable for or charged with any moneys until actually received;

- (e) the Mortgagee may rescind or vary any contract of sale and may buy in and re-sell the Mortgaged Land or any part thereof without being answerable for any loss occasioned thereby;
- (f) the Mortgagee may sell all or any part of the buildings, fixtures, machinery, equipment, crops and standing or fallen trees separately from the Mortgaged Land and the purchaser shall have all necessary access to the Mortgaged Land for the purposes of severing, cutting and removal; and
- (g) subject to compliance with law, sales may be made from time to time of any part or parts of the Mortgaged Land to satisfy any part or parts of the Indebtedness then owing to the Mortgagee leaving the remaining outstanding Indebtedness secured by the Mortgage as a charge of the remainder of the Mortgaged Land.

4. *Sale or Lease.* The following shall apply with respect to any sale or lease by the Mortgagee, its agent or any Receiver of all or part of the Mortgaged Land after the occurrence of a Default and after obtaining any court order required by law:

- (a) no purchaser or lessee shall be bound to enquire into the legality, regularity or propriety of any sale or lease or be affected by notice of any irregularity or impropriety and no lack of default or lack of notice or other requirement or any irregularity or impropriety of any kind shall invalidate any sale or lease;
- (b) the Mortgagee may sell or lease all or part of the Mortgaged Land without entering into actual possession of the Mortgaged Land and, when it desires to take possession, it may break locks and bolts and while in possession shall only be accountable for moneys actually received by it;
- (c) the Mortgagor hereby appoints the Mortgagee as the Mortgagor's true and lawful attorney and agent to make application under any statute for consent to sever, sell or lease part or parts of the Mortgaged Land and to do all things and execute all documents to effectually complete any such severance, sale or lease;
- (d) the Mortgagee may lease or take sale proceedings notwithstanding that other mortgage proceedings have been taken or are then pending;
- (e) the Mortgagee shall not be responsible for any loss which may arise by reason of any such leasing or sale of the Mortgaged Land unless such loss is caused by the Mortgagee's willful misconduct; and
- (f) no sale, leasing or other dealing by the Mortgagee with the Mortgaged Land or any part thereof shall in any way change the liability of the Mortgagor or in any way alter the rights of the Mortgagee as against the Mortgagor or any other person liable for payment of any Indebtedness.

5. *Attornment.* To the extent the Mortgaged Land or any part thereof is not a residential premises so as to be subject to the provisions of the applicable statute governing residential tenancies, the Mortgagor hereby attorns to and becomes a tenant of such Mortgaged Land to the Mortgagee from year to year from the date of the execution of the Mortgage until the Mortgage is discharged at a rental equivalent to and applicable in satisfaction of the interest payments forming part of the Indebtedness, the legal relation of landlord and tenant being hereby constituted between the Mortgagee and the Mortgagor in regard to the Mortgaged Land. The Mortgagor agrees that neither the existence of this provision nor anything done by virtue hereof shall impose any obligation on the Mortgagee or render the Mortgagee a mortgagee in possession or accountable for any moneys except moneys actually received by the Mortgagee and the Mortgagee may, upon the occurrence of any Default, enter on the Mortgaged Land and terminate the tenancy hereby created without notice.

6. *Right to Distrain.* Upon the occurrence of a Default and after obtaining any court order required by law, the Mortgagee may, to the extent permitted by law, distrain for payment of any and all Indebtedness upon the Mortgaged Land or any part thereof and all chattels situated thereon and by distress warrant recover, by way of rent reserved from the Mortgaged Land, such moneys as shall from time to time be or remain in arrears and all costs, charges and expenses incurred by or on behalf of the Mortgagee with respect to or in connection therewith as in like

cases of distress for rent. The Mortgagor waives the right to claim exceptions and agrees that the Mortgagee shall not be limited in the amount for which it may distrain.

7. *Judgments and Non-Merger.* The taking of a judgment or judgments with respect to any of the covenants contained herein, in the Mortgage or otherwise shall not operate as a merger of any such covenants or affect the Mortgagee's right to receive interest under the Mortgage and each such judgment may provide, at the option of the Mortgagee, that interest thereon shall be computed and payable until such judgment has been fully paid and satisfied.

8. *Separate Remedies.* All remedies of the Mortgagee may be exercised from time to time separately or in combination and are in addition to and not in substitution for any other rights of the Mortgagee however created.

9. *Application of Proceeds and Mortgagor's Liability for Deficiency.* All amounts received by the Mortgagee or any Receiver pursuant to any enforcement of the Mortgage may be held by the Mortgagee as security for the Indebtedness or applied to reduce Indebtedness in such manner as may be determined by the Mortgagee and the Mortgagee may at any time apply or change any such appropriation of such payments to such part or parts of the Indebtedness as the Mortgagee may determine in its sole discretion. The Mortgagor shall be and remain liable to the Mortgagee for any deficiency. Any surplus amounts realized after payment of all Indebtedness shall be paid in accordance with applicable law.

10. *Mortgagor's Insolvency Proceedings.* The Mortgagor acknowledges that the Mortgaged Land is of such a unique nature that, if the Mortgagor seeks to reorganize or restructure its affairs pursuant to any Insolvency Proceeding, the Mortgagee would not have a sufficient commonality of interest with any other creditor or creditors of the Mortgagor such that the Mortgagee would be required to vote on any plan, reorganization, arrangement, compromise or other transaction in a class with any other creditor or creditors of the Mortgagor and, in that regard, the Mortgagor agrees that the Mortgagee shall be placed in its own exclusive class of creditors for voting purposes. The Mortgagor further agrees that:

- (a) it will give the Mortgagee not less than 10 days written notice prior to the commencement of any Insolvency Proceeding with respect to the Mortgagor;
- (b) in no circumstance will the Mortgagor seek an order which stays any right of the Mortgagee or, to the extent permitted by law, permit any right of the Mortgagee to be stayed, in any Insolvency Proceeding and, if any court-ordered or automatic stay is imposed on the Mortgagee, the Mortgagor hereby consents to an order lifting such stay as against the Mortgagee;
- (c) if an Insolvency Proceeding is commenced with respect to the Mortgagor, the Mortgagor will consent to an order directing that all rents or other revenues generated or received from or in respect of the Mortgaged Land be deposited to a segregated trust account under the sole control of the Mortgagee and that same shall not result in the Mortgagee's being a mortgagee in possession of, or in control or management of the Mortgaged Land or result in the acceleration of payment of any Indebtedness unless such acceleration is required by the Mortgagee in writing; and
- (d) it shall not, without the Mortgagee's prior written consent, propose or permit the sale or transfer of the Mortgaged Land or any part thereof, in or as part of any Insolvency Proceeding, for a net sale price less than the amount required to pay in full all Indebtedness outstanding as at the date of payment of such net sale proceeds to the Mortgagee.

## **J. APPOINTMENT OF A RECEIVER**

1. *Appointment.* Upon the occurrence of a Default, in addition to any other remedies available to the Mortgagee, the Mortgagee may by instrument in writing appoint a Receiver of all or any part of the Mortgaged Land and all rents, incomes, profits and other amounts now or hereafter arising therefrom. The Mortgagee may also apply to any court of competent jurisdiction for the appointment of a Receiver.

2. *Powers of Receiver.* Any Receiver appointed by the Mortgagee shall, to the extent permitted by law, have the following powers:

- (a) to enter upon, take possession of, use, and occupy the Mortgaged Land or any part thereof;
- (b) to collect all rents, incomes, profits and other amounts in respect of the Mortgaged Land and to carry on the business of the Mortgagor on the Mortgaged Land;
- (c) to borrow money required for the maintenance, preservation or protection of the Mortgaged Land or for carrying on the business of the Mortgagor and, in the discretion of the Receiver, to charge the Mortgaged Land in priority to the Mortgage as security for the principal amounts so borrowed, interest thereon and costs related thereto;
- (d) to sell, lease, or otherwise dispose of the Mortgaged Land or any part thereof on such terms and conditions and in such manner as the Receiver shall determine in its sole discretion, and to effect such sale by conveying in the name and on behalf of the Mortgagor or otherwise;
- (e) to demand, commence, continue or defend any judicial or administrative proceedings for the purpose of protecting, seizing, collecting, realizing or obtaining possession of the Mortgaged Land, and to give valid and effectual receipts and discharges therefor and to compromise or give time for the payment or performance of all or any part of the rents, accounts receivable or any other obligation of any person to the Mortgagor;
- (f) to exercise any rights or remedies which could have been exercised by the Mortgagee against the Mortgagor or the Mortgaged Land or with respect thereto; and
- (g) to execute all documents required to effect any of the foregoing.

3. *Identity of Receiver and Removal.* Any Receiver so appointed by the Mortgagee may be any person or persons satisfactory to the Mortgagee, and the Mortgagee may remove any Receiver so appointed and appoint another or others instead.

4. *Receiver as Agent of Mortgagor.* Any Receiver appointed by the Mortgagee shall be deemed to be agent of the Mortgagor unless the Mortgagee expressly specifies in writing that the Receiver shall be agent of the Mortgagee. The Mortgagor agrees to ratify and confirm all actions of the Receiver acting as agent for the Mortgagor and to release and indemnify the Receiver in respect of all such actions.

5. *Receivership Expenses.* The Mortgagor shall pay to the Receiver, forthwith on demand by the Mortgagee or the Receiver, the amount of all reasonable fees, disbursements and other expenses incurred by the Receiver in the exercise of its powers hereunder, with interest thereon at the Applicable Rate from the date on which such sums are incurred. All such sums, together with interest thereon at the Applicable Rate, shall be part of the Indebtedness and secured by the Mortgage.

6. *No Enquiries Required.* No persons dealing with the Receiver or its agents, upon any sale or other dealing with the Mortgaged Land, shall be concerned to inquire as to their powers or as to the application of any money paid to them, such sale or dealing shall be deemed as regards such person to be within the powers hereby conferred and to be valid and effectual.

## **K. MISCELLANEOUS**

1. *Records of Mortgagee.* The records of the Mortgagee disclosing the amount of a principal loan advance made by the Mortgagee to the Mortgagor, the repayment of any principal amount of Indebtedness, the amount of accrued and unpaid interest owing by the Mortgagor and the amount of other Indebtedness (or any part thereof) at any time outstanding, shall constitute conclusive evidence thereof in the absence of mathematical error.



2. *Future Advances.* The Mortgagee may, from time to time in the Mortgagee's sole discretion, lend additional principal amounts to the Mortgagor provided that the total outstanding principal amount at any time owing by the Mortgagor to the Mortgagee and secured by the Mortgage shall not exceed the principal amount set out in the Mortgage and provided further that the Mortgagor delivers to the Mortgagee a letter, agreement or instrument wherein the Mortgagor refers to such additional principal amount and the Mortgage or wherein the Mortgagor agrees that such principal advance is made pursuant to the Mortgage or agrees that such principal amount shall be secured by the Mortgage. Each such principal amount, all interest accrued thereon at the rate agreed to by the Mortgagor and the Mortgagee and all other amounts owing by the Mortgagor to the Mortgagee with respect thereto shall be included as Indebtedness, the payment thereof by the Mortgagor to the Mortgagee shall be secured by the Mortgage and each provision of the Mortgage shall apply thereto. The foregoing shall apply whether or not the principal amount of the Mortgage is from time to time reduced and thereafter increased or paid in full and thereafter incurred again. Nothing herein shall obligate the Mortgagee to lend any principal amount.

3. *Assignment and Syndication.* The Mortgagee shall be entitled from time to time, both before and after a Default, without notice to, or the consent of the Mortgagor or any Guarantor:

- (a) to sell or assign all or part of the Indebtedness and the Mortgagee's interests in the Mortgage and any other security and agreements held by the Mortgagee; and
- (b) to syndicate all or part of the Indebtedness, the Mortgage and any other security and agreements held by the Mortgagee and to grant participations therein.

To facilitate the foregoing, the Mortgagee may provide each prospective purchaser, assignee, syndicated lender or participant and their respective advisers with financial and other information concerning the Indebtedness, the Mortgagor, the Mortgaged Land, any Guarantor, any other collateral or any other matter.

4. *Securitization and Consent to Disclosure on Securitization.* The Mortgagor agrees that Indebtedness (or securities or certificates backed by or representing any interest in Indebtedness or a pool of loans which includes Indebtedness) may be sold or securitized into the secondary market without further notice to, or the consent of the Mortgagor or any Guarantor. The Mortgagee, and each lender or other holder of Indebtedness from time to time, may release, disclose, exchange, share, transfer and assign, as it may determine in its sole discretion, all information and materials (including financial statements and information concerning the status of the Indebtedness such as existing or potential defaults, lease defaults or other facts or circumstances which might affect the performance of the Mortgagor, any Guarantor or any Indebtedness) provided to or obtained by the Mortgagee, or any other lender or holder of Indebtedness relating to the Indebtedness, the Mortgagor, the Mortgaged Land, any Guarantor, any other collateral or any other matter (both before and after any advance and before and after any Default), without restriction and without notice to, or consent of the Mortgagor or any Guarantor, to any of the following:

- (a) any other lender or holder of Indebtedness;
- (b) any rating agency;
- (c) any subsequent or proposed purchaser of Indebtedness, including any subsequent or proposed lender or holder of Indebtedness, and their respective advisers or agents, including lawyers, accountants, consultants, appraisers, credit verification sources and servicers;
- (d) the public or any private group in any offering memorandum, prospectus or other disclosure document (including all initial and continuing disclosure requirements) regardless of format or scope of distribution;
- (e) the public or other interested persons, directly or indirectly through information service providers or other market participants for the purpose of providing market information from time to time relating to the status of Indebtedness or loan pools or any interest therein regardless of format or scope of distribution;

- (f) any governmental authority having jurisdiction over such sale or securitization of Indebtedness or loan pool or any trade of any interest in Indebtedness or any loan pool; and
- (g) any other person in connection with the securitization of Indebtedness or in connection with any collection or enforcement proceedings taken under or in respect of Indebtedness or any documents with respect thereto.

The Mortgagor irrevocably consents to the collection, obtaining, release, disclosure, exchange, sharing, transfer and assignment of all such information and materials.

5. *General Indemnity by Mortgagor.* The Mortgagor hereby agrees, on demand by the Mortgagee, to indemnify and hold harmless the Mortgagee and its officers, directors, employees and agents from and against any and all claims, expenses, liabilities, losses and damages that may be asserted against or incurred by any of such indemnified persons arising out of, or in connection with the Commitment Agreement, the Mortgage, any Indebtedness or any claim, investigation, proceeding or litigation relating to any of the foregoing, regardless of whether any such indemnified person is a party thereto (including any and all breakage costs reasonably incurred by the Mortgagee in respect of any breach by the Mortgagor of any of its obligations under the Mortgage) and to reimburse each such indemnified person, on demand by the Mortgagee, for any and all reasonable legal and other expenses incurred in investigating, pursuing or defending any of the foregoing or otherwise in connection with any of the foregoing; provided that the foregoing indemnity shall not, as to any indemnified person, apply to any claim, expense, liability, loss or damage or related expense to the extent they are found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the wilful misconduct or gross negligence of such indemnified person.

6. *Effect of Sale.* No sale, conveyance, transfer or other dealing by the Mortgagor with the Mortgaged Land or any part thereof or any approval of the Mortgagee relating thereto shall in any way change or affect the liability of the Mortgagor or in any way alter the rights of the Mortgagee as against the Mortgagor or any other person or persons liable for payment of the Indebtedness or any part thereof.

7. *Dealings with the Mortgagor and Others.* The Mortgagee may grant time, renewals, extensions, indulgences, releases and discharges to, may take security from and give the same and any and all existing security up to, may abstain from taking security from or from perfecting security of, may accept compositions from, may amend the Mortgage, and may otherwise deal with the Mortgagor and all other persons (including any principal debtor, any Guarantor or any owner of the Mortgaged Land) and security as the Mortgagee may see fit without prejudicing any rights of the Mortgagee under the Mortgage.

8. *Extensions of Maturity Date and Other Amendments to Mortgage.* The Mortgagor and the Mortgagee may from time to time amend the Mortgage (including to extend the maturity date or balance due date of the Mortgage and to increase the Applicable Rate) by an amendment agreement between the Mortgagor and the Mortgagee, whether or not such amendment agreement (or notice thereof) is registered. This provision shall constitute notice of such amendments and the Mortgage shall secure payment of all Indebtedness (including all interest and other Indebtedness arising or resulting from such amendments) and retain its priority with respect thereto over any mortgage, charge or other instrument registered subsequent to the Mortgage. For the purposes of any statutory prepayment right of the Mortgagor after the original maturity date or original balance due date, the date of the Mortgage shall be deemed to be the first day of the extended term of the Mortgage. Nothing herein shall confer on the Mortgagor any right to an extension of the maturity date or balance due date.

9. *Waiver.* No waiver, condonation or excusing by the Mortgagee of any default, breach or other non-performance by the Mortgagor at any time or times in respect of any provision of the Mortgage (including any Default) shall operate as a waiver by the Mortgagee of any subsequent or other default, breach or non-performance or prejudice or affect in any way the rights of the Mortgagee in respect of any such subsequent or other default, breach or non-performance.

10. *Discharge or Assignment.* The Mortgagee shall be entitled to prepare or have its counsel prepare a discharge or assignment of the Mortgage and any other documents necessary to discharge or assign any other security held by the Mortgagee and shall have a reasonable time

after payment of the Indebtedness in full within which to prepare, execute and deliver such instruments. All reasonable costs, fees and disbursements of the Mortgagee and the Mortgagee's counsel in connection with the preparation, review, execution and delivery of the discharge, assignment or any other documents necessary to discharge or assign the Mortgage or any other security shall, to the extent permitted by law, be paid by the Mortgagor to the Mortgagee and be secured by the Mortgage.

11. *No Obligation to Advance.* Nothing herein and nothing contained in the Mortgage shall obligate the Mortgagee to loan any amount to the Mortgagor or to extend any other credit to the Mortgagor.

12. *Appointment of Attorney Irrevocable.* Each appointment by the Mortgagor of an attorney in the Mortgage or the Standard Charge Terms is coupled with an interest and may not be revoked.

13. *Other Security.* The Mortgage is in addition to and not in substitution for any other security at any time held by the Mortgagee as security for payment of all or any part of the Indebtedness, and the Mortgagee may, at its option, pursue its remedies thereunder or under the Mortgage concurrently or successively. Any judgment or recovery under the Mortgage or under any other security held by the Mortgagee as security for payment of Indebtedness shall not affect the right of the Mortgagee to enforce or realize on the Mortgage or any other such security.

14. *Financing Statement.* To the extent permitted by law, the Mortgagor hereby waives its right to receive from the Mortgagee a copy of any financing statement, financing change statement, verification statement or other similar statement filed by or received by the Mortgagee or any agent of the Mortgagee.

15. *Survival of Commitment Agreement.* The provisions of the Commitment Agreement shall survive the execution and delivery of the Mortgage and any advance made thereunder. In the event of any conflict between any provision of the Commitment Agreement and any provision of the Mortgage, the provision specified by the Mortgagee shall govern.

16. *Notice.* Except as otherwise herein provided, any notice, demand or other communication to the Mortgagor referred to herein or in the Mortgage may be forwarded to the Mortgagor by personal delivery or mailed by prepaid ordinary or registered mail to the Mortgagor at the Mortgagor's last known address as shown on the Mortgagee's records. The Mortgagor shall be deemed to have received the same on the date of delivery, if personally delivered, or on the fourth day after the same is mailed by prepaid ordinary mail or registered mail, if mailed, even if the Mortgagor does not actually receive it.

17. *Governing Law.* The Standard Charge Terms and the Mortgage shall be governed by the law of the jurisdiction in which the Mortgaged Land is located.

18. *Time of Essence.* Time shall be of the essence of the Mortgage.

19. *Severability.* If any provision of the Mortgage is found by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision shall not apply and the Mortgage shall remain in full force and effect without such provision.

20. *Interpretation.* Whenever the context so requires, words in the singular shall include the plural, words in the plural shall include the singular and words importing any gender shall include the other genders. Whenever used in the Standard Charge Terms, the Mortgage or any Schedule, the words "including" and "includes" shall mean "including, without limitation" and "includes, without limitation", respectively, and the word "person" shall include an individual, corporation, partnership, government, government agency and any other entity.

21. *Titles.* Titles used in the Standard Charge Terms, the Mortgage or any Schedule are inserted for convenience of reference only and shall not affect or modify the interpretation or construction of any provision of the Standard Charge Terms, the Mortgage or any Schedule.

22. *Joint and Several Obligations.* If there is more than one Mortgagor, all Mortgagors shall be jointly and severally liable for all obligations of the Mortgagors pursuant to the Mortgage.

23. *Schedule.* Schedule "A" shall form part of the Standard Charge Terms.

24. *Equivalent Rate Information.* Schedule “A” is a summary of various annual rates of interest calculated half-yearly not in advance equivalent to the corresponding annual rates calculated monthly not in advance or calculated quarter-annually not in advance. The rate of interest chargeable, calculated half-yearly not in advance, equivalent to each Applicable Rate, is shown by Schedule “A”.

25. *Successors and Assigns.* All rights and powers of the Mortgagee shall enure to the benefit of and be exercisable by the Mortgagee and the Mortgagee’s successors and assigns. All covenants, obligations and liabilities entered into or imposed on the Mortgagor shall be binding on the Mortgagor and the Mortgagor’s heirs, executors, administrators, personal representatives, successors and assigns.

**SCHEDULE "A"**

The interest rates set out in Column C are the annual interest rates calculated half-yearly not in advance which are equivalent to the corresponding annual interest rates calculated monthly not in advance set out in Column A and quarter-annually not in advance set out in Column B.

<b>COLUMN A</b>	<b>COLUMN B</b>	<b>COLUMN C</b>	<b>COLUMN A</b>	<b>COLUMN B</b>	<b>COLUMN C</b>
<b>Interest rate calculated monthly not in advance</b>	<b>Interest rate calculated quarter-annually not in advance</b>	<b>Interest rate calculated half-yearly not in advance</b>	<b>Interest rate calculated monthly not in advance</b>	<b>Interest rate calculated quarter-annually not in advance</b>	<b>Interest rate calculated half-yearly not in advance</b>
3.0000%	3.0075%	3.0188%	11.6250%	11.7380%	11.9102%
3.1250%	3.1331%	3.1454%	11.7500%	11.8654%	12.0414%
3.2500%	3.2588%	3.2721%	11.8750%	11.9929%	12.1727%
3.3750%	3.3845%	3.3988%	12.0000%	12.1204%	12.3040%
3.5000%	3.5102%	3.5256%	12.1250%	12.2479%	12.4354%
3.6250%	3.6360%	3.6525%	12.2500%	12.3755%	12.5669%
3.7500%	3.7617%	3.7794%	12.3750%	12.5031%	12.6985%
3.8750%	3.8875%	3.9064%	12.5000%	12.6307%	12.8301%
4.0000%	4.0133%	4.0335%	12.6250%	12.7583%	12.9618%
4.1250%	4.1392%	4.1606%	12.7500%	12.8859%	13.0935%
4.2500%	4.2651%	4.2878%	12.8750%	13.0136%	13.2253%
4.3750%	4.3910%	4.4151%	13.0000%	13.1413%	13.3572%
4.5000%	4.5169%	4.5424%	13.1250%	13.2691%	13.4892%
4.6250%	4.6428%	4.6698%	13.2500%	13.3968%	13.6212%
4.7500%	4.7688%	4.7973%	13.3750%	13.5246%	13.7533%
4.8750%	4.8948%	4.9248%	13.5000%	13.6524%	13.8854%
5.0000%	5.0209%	5.0524%	13.6250%	13.7803%	14.0177%
5.1250%	5.1469%	5.1800%	13.7500%	13.9082%	14.1499%
5.2500%	5.2730%	5.3078%	13.8750%	14.0360%	14.2823%
5.3750%	5.3991%	5.4355%	14.0000%	14.1640%	14.4147%
5.5000%	5.5252%	5.5634%	14.1250%	14.2919%	14.5472%
5.6250%	5.6514%	5.6913%	14.2500%	14.4199%	14.6798%
5.7500%	5.7776%	5.8193%	14.3750%	14.5479%	14.8124%
5.8750%	5.9038%	5.9474%	14.5000%	14.6759%	14.9451%
6.0000%	6.0300%	6.0755%	14.6250%	14.8040%	15.0779%
6.1250%	6.1563%	6.2037%	14.7500%	14.9320%	15.2108%
6.2500%	6.2826%	6.3319%	14.8750%	15.0601%	15.3437%
6.3750%	6.4089%	6.4603%	15.0000%	15.1883%	15.4766%
6.5000%	6.5353%	6.5887%	15.1250%	15.3164%	15.6097%
6.6250%	6.6616%	6.7171%	15.2500%	15.4446%	15.7428%
6.7500%	6.7880%	6.8456%	15.3750%	15.5728%	15.8760%
6.8750%	6.9145%	6.9742%	15.5000%	15.7011%	16.0092%
7.0000%	7.0409%	7.1029%	15.6250%	15.8293%	16.1425%
7.1250%	7.1674%	7.2316%	15.7500%	15.9576%	16.2759%
7.2500%	7.2939%	7.3604%	15.8750%	16.0859%	16.4094%
7.3750%	7.4204%	7.4892%	16.0000%	16.2143%	16.5429%
7.5000%	7.5470%	7.6182%	16.1250%	16.3427%	16.6765%
7.6250%	7.6736%	7.7472%	16.2500%	16.4710%	16.8102%
7.7500%	7.8002%	7.8762%	16.3750%	16.5995%	16.9439%
7.8750%	7.9268%	8.0053%	16.5000%	16.7279%	17.0777%
8.0000%	8.0535%	8.1345%	16.6250%	16.8564%	17.2116%
8.1250%	8.1801%	8.2638%	16.7500%	16.9849%	17.3455%
8.2500%	8.3068%	8.3931%	16.8750%	17.1134%	17.4795%
8.3750%	8.4336%	8.5225%	17.0000%	17.2420%	17.6136%
8.5000%	8.5604%	8.6519%	17.1250%	17.3706%	17.7477%
8.6250%	8.6871%	8.7815%	17.2500%	17.4992%	17.8819%
8.7500%	8.8140%	8.9111%	17.3750%	17.6278%	18.0162%
8.8750%	8.9408%	9.0407%	17.5000%	17.7564%	18.1506%
9.0000%	9.0677%	9.1704%	17.6250%	17.8851%	18.2850%
9.1250%	9.1946%	9.3002%	17.7500%	18.0138%	18.4195%
9.2500%	9.3215%	9.4301%	17.8750%	18.1426%	18.5540%
9.3750%	9.4484%	9.5600%	18.0000%	18.2713%	18.6887%
9.5000%	9.5754%	9.6900%	18.1250%	18.4001%	18.8233%
9.6250%	9.7024%	9.8201%	18.2500%	18.5290%	18.9581%
9.7500%	9.8294%	9.9502%	18.3750%	18.6578%	19.0929%
9.8750%	9.9565%	10.0804%	18.5000%	18.7867%	19.2278%
10.0000%	10.0836%	10.2107%	18.6250%	18.9156%	19.3628%
10.1250%	10.2107%	10.3410%	18.7500%	19.0445%	19.4979%
10.2500%	10.3378%	10.4714%	18.8750%	19.1734%	19.6330%
10.3750%	10.4650%	10.6019%	19.0000%	19.3024%	19.7682%
10.5000%	10.5921%	10.7324%	19.1250%	19.4314%	19.9034%
10.6250%	10.7194%	10.8630%	19.2500%	19.5605%	20.0387%
10.7500%	10.8466%	10.9937%	19.3750%	19.6895%	20.1741%
10.8750%	10.9739%	11.1244%	19.5000%	19.8186%	20.3096%
11.0000%	11.1011%	11.2552%	19.6250%	19.9477%	20.4451%
11.1250%	11.2285%	11.3861%	19.7500%	20.0768%	20.5807%
11.2500%	11.3558%	11.5170%	19.8750%	20.2060%	20.7163%
11.3750%	11.4832%	11.6480%	20.0000%	20.3352%	20.8521%
11.5000%	11.6106%	11.7791%			