

# SET OF STANDARD CHARGE TERMS

Registered by NATIONAL TRUST COMPANY

Deposit Registration No. 892

## TABLE OF CONTENTS

	Page
1. Exclusion of Statutory Covenants .....	1
2. Interest to Interest Adjustment Date .....	1
3. Interest Payments .....	1
4. Revision of Interest Adjustment Date .....	1
5. Monthly Payments .....	1
6. Application of Monthly Payments .....	1
7. Interest After Default .....	1
8. No Obligation to Advance .....	1
9. Acceleration of Principal and Interest .....	1
10. Place of Payment .....	1
11. Time of Payment .....	1
12. Receipt of Payments .....	1
13. Promise to Pay and Perform .....	2
14. Good Title in Fee Simple .....	2
15. Right to Charge the Land .....	2
16. Further Assurances .....	2
17. No Act to Encumber .....	2
18. Insurance .....	2
19. Cost of Exercise of Power of Sale .....	2
20. Repair .....	2
21. Alterations .....	2
22. Security to Include .....	3
23. Building Charge .....	3
24. Taxes .....	3
25. Pre-Authorized Chequing Plan .....	4
26. Family Law Act, 1986 .....	4
27. Leasehold Provisions .....	4
28. Power of Sale .....	4
29. Possession .....	4
30. Notice .....	5
31. Statutory Requirements .....	5
32. Leasehold Interest Remedies .....	5
33. Distrain for Arrears .....	5
34. Partial Release .....	5
35. Chargor to Remain Liable .....	5
36. Right to Pay Expenses .....	5
37. Non-Merger of Covenants .....	6
38. Bonus on Default .....	6
39. Administration Fee .....	6
40. Liens .....	6
41. Expropriation .....	6
42. Charge Not in Possession .....	6
43. Appointment of Receiver .....	6
44. Additional Remedies .....	7
45. Chargor to Remain in Possession .....	7
46. Extensions .....	7
47. Assignment of Leases .....	7
48. Due on Sale .....	7
49. Financial Statements .....	7
50. Waiver .....	7
51. Definitions .....	8
52. Number and Gender .....	8
53. Headings .....	8
54. Enurement .....	8
55. Date of Charge .....	8
56. Discharge .....	8
57. Commitment Letter and Mortgage Application .....	8
58. Interpretation .....	8
59. Severability Of Any Invalid Provisions .....	8
60. Condominium Provisions .....	8
61. Guarantee .....	10
62. Principal Covenantor .....	10
63. Duty to Maintain Security .....	10
64. Continued Liability of Chargor .....	10
65. Partial Releases .....	10
66. Variance of Terms .....	10
67. Guarantor's Covenants .....	10
68. Residential Dwelling Privileges .....	11
69. Spousal Consent .....	11
70. Acknowledgement .....	11

## Standard Charge Terms

The following Set of Standard Charge Terms shall be deemed to be included in every Charge in which the Set is referred to by its filing number, as provided in Section 9 of the Land Registration Reform Act.

### EXCLUSION OF STATUTORY COVENANTS

1. The implied covenants deemed to be included in a charge under sub-section 7(1) of the *Land Registration Reform Act*, 1984, and shown as paragraphs 1 and 2 of the said sub-section 7(1), shall be and are hereby expressly excluded and replaced by this Set of Standard Charge Terms which are covenants by the Chargor, for the Chargor and the Chargor's successors, with the Chargee and the Chargee's successors and assigns.

### PAYMENT PROVISIONS

2. **Interest to Interest Adjustment Date:** Interest payable under the Charge up to and including the Interest Adjustment Date on the amounts advanced from time to time shall be computed monthly from the date of such advances, and shall become due and be paid on the Interest Adjustment Date.
3. **Interest Payments:** The Chargee may require the aforesaid interest on the advances of the Principal Amount from time to time, computed and calculated monthly from the date of such advance, to become due and payable in monthly instalments on the first day of the month following the first advance, and on the first day of each and every month thereafter and the balance, if any, of the aforesaid interest on advances shall become due and be paid on the Interest Adjustment Date. At the option of the Chargee, interest so due and payable may be deducted from any or all such advances. Except for the rate of interest payable up to the Interest Adjustment Date, wherever in the Charge reference is made to "the rate of interest provided for in the Charge" or the "said rate of interest", or the "said rate", the rate of interest shall be deemed to be a reference to the said rate of interest calculated semi-annually not in advance.
4. **Revision of Interest Adjustment Date:** The Interest Adjustment Date, the First Payment Date and the Balance Due Date, may, at the option of the Chargee, be changed, altered or varied, so that the Interest Adjustment Date shall be the first day of the month following the month in which the final advance of the Principal Amount is made by the Chargee (hereinafter sometimes referred to as the "revised Interest Adjustment Date") and, in such event, the First Payment Date shall be the first day of the month next following the revised Interest Adjustment Date and the Balance Due Date shall be changed, altered or varied accordingly, with the intent that the period of the time commencing with the revised Interest Adjustment Date and ending on the Balance Due date so varied, shall be equal to the period of time between the Interest Adjustment Date and the Balance Due Date set out in the Charge. The Chargee shall be the sole judge of when the final advance has been made.

5. **Monthly Payments:** After the Interest Adjustment Date (or after the revised Interest Adjustment Date, as the case may be), the Principal Amount and interest shall be payable by monthly instalments in the amount set out in Box 9(h) of the Charge (the "Monthly Payment") (which includes a proportion of the Principal Amount and interest) on the first day of each and every month in each and every year from and including the First Payment Date to and including the Last Payment Date and the balance, if any, of the Principal Amount and of the said interest shall become due and payable on the date last mentioned. Each Monthly Payment when received is to be applied firstly to interest calculated as aforesaid on the Principal Amount from time to time unpaid, and the balance, if any, of the Monthly Payment shall be applied on account of and in reduction of the Principal Amount.
6. **Application of Monthly Payments:** Notwithstanding the foregoing, in the case of default by the Chargor, the Chargee may then apply any payments received during the period of default in whatever order it may elect as between taxes, interest, repairs, compound interest, insurance premiums or any payments or other costs incurred or other advances made by the Chargee on behalf of the Chargor. In the event the amount in arrears exceeds any payment received by the Chargee hereunder, such excess shall, at the sole option of the Chargee, be added to the Principal Amount and shall bear interest at the rate aforesaid.
7. **Interest After Default:** In case default shall be made in payment of any sum to become due at any time appointed for payment in the Charge, compound interest shall be payable and the sum in arrears from time to time, as well after as before maturity, and as well after as before judgement, shall bear interest at the rate aforesaid, and in case the sum in arrears and compound interest are not paid in one month from the time of default a rest shall be made, and compound interest at the rate aforesaid shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such sums and compound interest shall be a charge upon the Land.
8. **No Obligation to Advance:** Neither the preparation, execution nor registration of the Charge shall bind the Chargee to advance the moneys secured by the Charge, nor shall the advance of a part of the moneys secured by the Charge bind the Chargee to advance any unadvanced portion thereof, but nevertheless the security in the Land shall take effect forthwith upon the execution of the Charge by the Chargor. The expenses of the examination of the title and of the Charge and all valuation fees and standby and commitment fees together with all costs of the Chargee are to be secured by the Charge in the event that the whole or any balance of the Principal Amount is not advanced, and shall at the option of the Chargee be, without demand therefor, payable forthwith with interest at the rate provided for in the Charge and in default the Chargee's power of sale hereby given, and all other remedies hereunder, shall be exercisable.
9. **Acceleration of Principal and Interest:** In the event of default by the Chargor in the observance or performance of any of the terms, covenants, provisos, agreements or conditions contained in the Charge or in any Charge to which the Charge is subject, the moneys hereby secured shall forthwith become due and payable, at the option of the Chargee, and all the powers of the Chargee shall become exercisable, and the powers of sale herein contained may be exercised as herein provided. The Chargee may in writing at any time or times after default waive such default and upon such waiver the time or times for payment of Principal Amount shall be as set out in the above proviso for redemption, provided that any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default.
10. **Place of Payment:** All payments on account of the Principal Amount, interest and other moneys payable hereunder to the Chargee shall be payable at par in lawful money of Canada at such place in the Province of Ontario or other place in Canada as the Chargee or other holder of the Charge shall designate in writing from time to time.
11. **Time of Payment:** Any payment that is received after 12:00 noon on any date shall be deemed, for the purpose of calculation of interest, to have been made and received on the next banking day.
12. **Receipt of Payments:** In the event that any of the moneys secured by the Charge are forwarded to the Chargee by mail, payment will not be deemed to have been made until the Chargee has actually received such moneys, and the Chargor shall assume and be responsible for all risk of loss or delay.

#### CHARGOR'S COVENANTS

13. **Promise to Pay and Perform:** The Chargor will pay or cause to be paid to the Chargee the Principal Amount and interest secured by the Charge in the manner of payment provided by the Charge, without any deduction or abatement, and shall do, observe, perform, fulfill and keep all the provisions, covenants, agreements and stipulations contained in the Charge and shall pay as they fall due all taxes, rates and assessments, municipal, local, parliamentary and otherwise which now are or may hereafter be imposed, charged or levied upon the Land and when required shall produce for the Chargee receipts evidencing payment of the same.
14. **Good Title in Fee Simple:** The Chargor, at the time of the execution and delivery of the Charge, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the Land and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisos, conditions or any other matter or thing to alter, charge, change, encumber or defeat the same, except those contained in the original grant thereof from the Crown.
15. **Right to Charge the Land:** The Chargor now has good right, full power and lawful and absolute authority to charge the Land and to give the Charge to the Chargee upon the covenants contained in the Charge.
16. **Further Assurances:** From and after default in the payment of the Principal Amount secured by the Charge or the interest thereon or any part of the Principal Amount or interest or in the doing, observing, performing, fulfilling or keeping of one or more of the covenants set forth in the Charge then and in every such case the Chargor and all and every other person whatsoever having, or lawfully claiming, or who shall have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the Land shall, from time to time, and at all times thereafter, at the proper costs and charges of the Chargor make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devises, conveyances and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the Land unto the Chargee as by the Charge or his solicitor shall or may be lawfully and reasonably devised, advised or required.
17. **No Act to Encumber:** The Chargor has not done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Land, or any part or parcel thereof, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate or otherwise, except as the records of the land registry office disclose.
18. **Insurance:**
  - (a) The Chargor will forthwith obtain insurance with attached mortgage clauses approved by the Chargee and, during the continuance of the Charge, will keep insured in favour of the Chargee against loss or damage by fire, and other perils customarily set out in fire insurance policies, with the broadest extended insurance coverage available and in any event, not less than full replacement value (including but without in any way limiting or restricting the generality of the foregoing, insurance against loss or damage by wind, storm, hail, lightning, explosion, riot, vandalism, impact by aircraft or vehicles, rupture of a heating, plumbing or air conditioning system or by escape of water from any such system or a public watermain and if there be plate glass windows in the building or buildings on the Land or if a steam boiler or any other object generating steam or operated by steam or if an oil or gas burner or coal blower or stoker or sprinkler system shall be operated on the Land, to insure also against loss by damage in respect to such plate glass and against loss or damage by explosion or caused by such boiler or other object or apparatus and loss or damage caused by such sprinkler system) for such other risks and hazards as the Chargee may from time to time require, each and every building on the Land and which may hereafter be erected thereon, both during erection and thereafter, for an amount not less than the full insurable value of the Land in dollars of lawful money of Canada in such manner and with such companies as approved by the Chargee; and the Chargor will upon request forthwith assign, transfer and deliver over unto the Chargee the policy of insurance and receipts thereof appertaining; and if the Chargor shall neglect to keep the said buildings or any of them insured as aforesaid, or, upon request, to deliver such policies and receipts or to produce to the Chargee at least fifteen days before the termination or expiry of any insurance, evidence of renewal or replacement thereof, the Chargee shall be entitled but shall not be obliged to insure the said buildings or any of them; and may pay the premiums therefor, which shall be added to the Charge debt and be a charge upon the Land; and the Chargor shall forthwith on the happening of any loss or damage, furnish at his own expense all necessary proofs and do all necessary acts to enable the Chargee to obtain payment of the insurance moneys; and any insurance money received may, at the option of the Chargee, be applied in rebuilding, reinstating or repairing the premises or be paid to the Chargor or any other person appearing by the registered title to be or have been the owner of the said premises or be applied or paid partly in one way and partly in another, or it may be applied, in the sole discretion of the Chargee, in whole or in part on the Charge debt or any part thereof whether due or not then due; and the Chargor does release to the Chargee all his claims upon the Land, subject to the said provisos.
  - (b) The Chargee may at any time require any insurance of the said buildings to be cancelled and a new insurance policy effected with a company or companies to be approved by the Chargee and may without reference to the Chargor effect or maintain at the cost of the Chargor any insurance upon or in respect of such buildings.
  - (c) The Chargor upon demand will transfer all policies of insurance covering the buildings, erections or fixtures (erected or to be erected) on the Land (with the mortgage clause in a form approved by the Chargee attached) and the indemnity which may become due therefrom to the Chargee and the Chargee shall have a lien for its Charge debt on all insurance on the said buildings, erections or fixtures and may elect to have these insurance moneys applied in re-statement or towards payment of moneys secured hereby whether due or not but shall not be bound to accept the said moneys in payment of any Principal Amount not yet due.
19. **Cost of Exercise of Power of Sale:** The Chargor covenants with the Chargee that the Chargor will reimburse the Chargee for legal fees, real estate commissions and all other costs incurred by the Chargee in exercising the power of sale herein contained (notwithstanding that same may have been paid to a party related to the Chargee).
20. **Repair:** The Chargor will keep the Land and the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof respectively, and the Chargee and/or its agent may, whenever it deems necessary, enter upon and inspect the Land, and the reasonable cost of such inspection shall be added to the Charge debt. If the Chargor neglects to keep the said premises in good condition and repair, or commits or permits any act of waste on the Land (as to which the Chargee shall be sole judge) or makes default as to any of the covenants, conditions or provisos herein contained, the Principal Amount and interest hereby secured shall at the option of the Chargee forthwith become due and payable, and in default of payment of same with interest, the powers of entering upon and leasing or selling hereby given and all other remedies herein contained may be exercised forthwith and the Chargee may make such repairs as it deems necessary, and the cost thereof with interest thereon shall be a charge upon the Land prior to all claims thereon subsequent to these presents.
21. **Alterations:** The Chargor will not make or permit to be made any structural alterations or additions to the Land or change or permit to be changed the use of the premises without the written consent of the Chargee and he will promptly observe, perform, execute and comply with all legislation, laws, rules, requirements, orders, directions, ordinances and regulations of every governmental authority or agency concerning the Land and will at his own cost 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 such present or future law, rules, requirement, order, direction, ordinance or regulation.

The Chargor acknowledges that in no event shall the Chargee be liable for any interest on any amount paid to or retained by the Chargee in accordance with the above provisions, and that any monies so received or retained may be held with the Chargees own funds pending payment or application thereof as hereinbefore provided.

The Chargor further acknowledges that the Chargee shall have the right, in its sole discretion, to request and receive information from the relevant taxation office or taxing authority indicating the status of the tax account pertaining to the Land. In addition, the Chargee shall be entitled to charge a servicing fee for each such written enquiry, together with any costs payable to said office or authority for such information. Such servicing fee is hereby agreed to be a fair and equitable one under the circumstances, and is intended to cover the Chargee's administrative costs, and shall not be deemed a penalty.

25. **Pre-Authorized Chequing Plan:** The Chargor further covenants and agrees with the Chargee to deliver to the Chargee as and when required, in such form as the Chargee may reasonably require, pre-authorized cheque forms duly executed by the Chargor, to facilitate the handling of monthly payment instalments provided for under the Charge.

26. **Family Law Act, 1986:** The Chargor covenants and agrees that:

(a) he or the owner from time to time of the Land will advise and keep advised the Chargee as to whether he (i.e. the Chargor or the owner from time to time) is a spouse as defined by Section 1(1) of the Family Law Act, 1986 (the Act), and, if so, the name of his spouse, and of any change in his spousal status or in the status of the Land as a matrimonial home within the meaning of the Act, and

(b) forthwith on request he will furnish the Chargee with such evidence in connection with any of the matters referred to in clause (a) above as the Chargee may from time to time require, including, without limitation, his and his spouse's name, address and birth date and his and his spouse's authorization to the Registrar under the Vital Statistics Act of Ontario to provide the Chargee from time to time on request all information in its possession relative to any marriage, divorce or death of the Chargor or his spouse,

and on default the Principal Amount, interest and all other monies hereby secured shall, at the option of the Chargee, forthwith become due and payable.

27. **Leasehold Provisions:** In the event that the Land is a leasehold interest, the following shall apply:

- (a) the Chargor hereby charges and subleases the Land to the Chargee 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 Chargor in the lease to secure the repayment of all amounts payable by the Chargor to the Chargee as secured under the Charge herein, and the performance of all of the obligations of the Chargor contained herein.
- (b) the Chargor covenants and agrees that no sale or other dealing by the Chargor with the lease or the Land or any part thereof and no extension of time given by the Chargee to the Chargor, or any one claiming under the Chargor or any other dealing by the Chargee with the owner of the lease or any part thereof, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other person liable to repay all amounts hereby secured.
- (c) the Chargor covenants with the Chargee that:
- (i) the Chargor has a good leasehold title to the Land;
- (ii) the Chargor has a right to charge and sublet the leasehold title to the Land to the Chargee in the manner herein provided and, if required, has obtained the lessor's consent to this Charge;
- (iii) neither the Chargor nor any other person has heretofore made, done, committed or suffered any act to encumber the lease or any part thereof;
- (iv) the lease is a good, valid and subsisting lease and has not been surrendered, forfeited, amended or become void or voidable, and the rents and covenants reserved have been duly paid and performed by the Chargor up to the date of signature of the Chargor;
- (v) during the continuance of this Charge, the Chargor will not amend, surrender or modify the lease without the written consent of the Chargee, 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 lessees part to be performed and observed, and hereby agrees to keep the Chargee indemnified against all actions, claims and demands whatsoever in respect of the said rent and covenants or anything related thereto; and
- (vi) the Chargor will stand possessed of the Land for the last day of the term or any renewal term granted by the lease in trust for the Chargee, and will assign and dispose thereof as the Chargee may direct, but subject to the same right of redemption and other rights as are hereby given to the chargor with respect to the derivative term hereby granted.

#### CHARGEES REMEDIES

28. **Power of Sale:** On default of payment for at least fifteen days the Chargee may on at least thirty-five days' notice sell the Land. Such notice shall be given to such persons and in such manner and form and within such time as provided under Part III of the *Mortgages Act*, R.S.O. 1980, C.296 as amended. 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 it is agreed that notice may be effectually given by leaving it with a grown-up person on the Land, if occupied, or by placing it on the Land if unoccupied, or at the option of the Chargee, by mailing it in a registered letter addressed to the Chargor at his last known address, or by publishing it once in a newspaper published in the county or district in which the Land is situate; and 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 disability.

29. **Possession:** In the event of default in the payment of an instalment or any other amount payable hereunder by the Chargor or in performance of any of the terms, covenants, provisos and conditions herein contained, after all or any part of the moneys hereby secured have been advanced, the Chargee may, at such time or times as the Chargee may deem necessary and without the concurrence of any person, enter upon and take possession of the Land free from all manner of former conveyances, mortgages, charges or encumbrances without let, suit, hindrance, interruption or denial of the Chargor or any other person whatsoever, and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Land, or for inspecting, taking care of, leasing, collecting the rents of and managing generally the Land, and institute such proceedings as the Chargee may deem necessary or desirable in its own name or the name of the Chargor, or otherwise as the Chargee may in its sole unfettered discretion deem expedient; and all reasonable costs, charges and expenses, including allowances for the time and service of any employee of the Chargee or other person appointed for the above purposes, together with a reasonable management fee, shall be forthwith payable to the Chargee and shall be a charge upon the Land and shall bear interest at the Charge rate until paid.

30. **Notice:** The Chargee may exercise the powers of entering, leasing or selling the Land or any of them without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such persons and in such manner and form and within such time as so required by law. The whole or any part or parts of the Land may be sold or, if the charged property is a leasehold interest, the unexpired term of years demised may be sold by public auction or private contract, or partly one or partly the other, and the proceeds of any sale hereunder may be applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the Land or by reason of non-payment or procuring payments of moneys, secured hereby or otherwise and that the Chargee may sell any of the Land on such terms as to credit and otherwise as shall appear to it most advantageous and for such prices as can reasonably be obtained therefor, and the Chargee may make any stipulations as to title or evidence of title or otherwise which it shall deem proper, and may buy in or rescind or vary any contract for the sale of the whole or any part of the Land and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Chargee shall be accountable to the Chargor only for such moneys as have been actually received from purchasers after the satisfaction of all claims and costs of the Chargee and for any of said purposes may make and execute all agreements and assurances as the Chargee shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given, but any person damaged by an unauthorized, improper or irregular exercise of the power shall have his remedy against the person exercising the power in damages only. In addition to and without limiting the foregoing, the Chargee may grant easements over, under or through or impose restrictive covenants on, any or all of the Land, or reserve easements over, under or through, or obtain the benefit of restrictive covenants on, any or all of the Land, or grant such other assurances as may be required.
31. **Statutory Requirements:** Whenever a power of sale is hereby conferred upon the Chargee, all provisions hereof relating to exercising such power, including, without in any way limiting the generality of the foregoing, the persons to whom notice of exercising such power shall be given and the manner of giving such notice, shall be deemed to have been amended so as to comply with the requirements of the law from time to time in force with respect to exercising such power of sale, and wherever there shall be a conflict between the provisions of the Charge relating to exercising such power of sale and the requirements of such law, the provisions of such law shall govern. Insofar as there is no such conflict, the provisions of the Charge shall remain unchanged.
32. **Leasehold Interest Remedies:** In the event that the property charged hereby is a leasehold interest, the following shall apply:
- (a) The Chargor hereby irrevocably appoints the Chargee as the Chargor's substitute to be Chargor's attorney during the continuance of this security. In the event of default and on giving the notice hereinbefore contemplated to the Chargor for and on behalf of the Chargor, the Chargee may assign the lease and convey the charged property and the last day of the term granted by the lease as the Chargee shall at any time direct, and in particular, upon any sale made by the Chargee under the statutory power or power of sale herein contained, to assign the lease and convey the charged property and the said reversion to the purchaser. It is hereby declared that the Chargee or other person for the time being entitled to the amounts payable hereunder and secured by this Charge may at any time, by deed, remove the Chargor or any other person from being a trustee of the lease under the declaration of the trust hereinbefore declared and on the removal of the Chargor or any future trustee of the lease appoint a new trustee or trustees in the Chargor's place.
- (b) The Chargor will, with respect to the lease, at the request of the Chargee, but at the cost, charge and expense of the Chargor, grant and assign unto the Chargee or whom it may appoint, the last day of the said term hereinbefore excepted or any renewal or substituted terms; and further, in the event of the Chargee making any sale under the Power of Sale contained in this Charge, the Chargor shall stand seized and possessed of the Charged property for the last day of the said term hereinbefore accepted, 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.
- (c) In the event the value of buildings and improvements on the charged property should become payable to the Chargor, or pursuant to the terms of the lease upon the same being paid to the Chargor, the amount so paid shall, if the same is by the terms of the lease not required to be expended on the charged property, become due on account of the amounts secured hereby and the balance then owing shall be accelerated so that the Chargor shall pay the Monthly payment in each and every month commencing with the month immediately following the month in which the additional payment is made and continue until all amounts secured hereunder have been fully repaid.
- (d) In the event that the Chargor shall refuse or neglect to renew the lease or any renewals thereof granted hereafter, then, and as often as it shall happen the Chargee may effect such renewals in its own name or otherwise, and every renewal of the lease and the charged property thereby demised shall remain and be security to the Chargee for the full amount secured hereunder.
33. **Distrain for Arrears:** If the Chargor shall make default in payment of any part of the Principal Amount, interest and monthly instalments on account of realty taxes payable under the Charge at any of the dates or times fixed for the payment thereof, it shall be lawful for the Chargee to distrain therefor upon the Land or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise of the Land, so much of such Principal Amount, interest and taxes 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.
34. **Partial Release:** The Chargee may at its discretion at all times release any part or parts of the Land or any other security or any surety for the money secured under the Charge either with or without any sufficient consideration therefor, and either before or after demand, or before or after judgment, and without responsibility therefor, and without thereby releasing any other part of the Land or any person from the Charge or from any of the covenants therein contained, it being especially agreed that every part or lot into which the Land is or may hereafter be divided does and shall stand charged with the whole money hereby secured and no person shall have the right to require the Charge moneys to be apportioned; and without being accountable to the Chargor for the value thereof, or for any moneys except those actually received by the Chargee.
35. **Chargor to Remain Liable:** No sale or other dealing by the Chargor with the equity of redemption in the Land or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other person liable for payment of the moneys hereby secured.
36. **Right to Pay Expenses:** The Chargee may pay or satisfy all premiums of insurance and all taxes and rates for utilities and otherwise, and all heating charges which shall from time to time fall due and be unpaid in respect of the Land. Such payments together with all costs, charges and expenses and all solicitor's charges (as between a solicitor and his client) which may be incurred in taking, recovering and keeping possession of the Land, and of negotiating this loan, investigating title, and registering the Charge and other necessary deeds, and generally in all proceedings or steps of any nature whatsoever properly taken in connection with or to realize this security (including legal fees, management fees, real estate commissions and other costs incurred in leasing or selling the said Land, or in exercising the powers of entering or leasing and/or selling the said Land contained herein, notwithstanding that same may have been paid to a party related to the Chargee) shall be, with interest at the rate aforesaid, a charge upon the Land in favour of the Chargee and shall be payable forthwith upon the demand of the Chargee and the Chargee may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the Land, and any amount paid by the Chargee shall be added to the debt hereby secured and shall be payable forthwith with interest at the rate aforesaid, and in default the Charge shall immediately become due and payable at the option of the Chargee, and all powers in the Charge conferred shall become exercisable. In the event that the Chargee satisfies any lien, charge or encumbrance, the Chargee shall be entitled to all the rights, equities and securities of the person, or persons, corporation, government or other entity so paid, and the Chargee is hereby authorized to retain any discharge or assignment thereof, with or without registration, at the Chargee's sole and untrammelled discretion.

37. **Non-Merger of Covenants:** The taking of a judgement or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times provided for in the Charge; and any judgement shall provide that interest thereon shall be computed at the same rate and in the same manner as provided in the Charge until the said judgement shall have been fully paid and satisfied.
38. **Bonus on Default:** On default of payment of any of the moneys secured by the Charge or payable or on any proceedings being taken by the Chargee under the Charge, it shall be entitled to require payment, in addition to all other moneys hereby secured or payable hereunder, of the greater of the loss of interest incurred by the Chargee and a bonus equal to three months' interest in advance at the rate aforesaid upon the Principal Amount.
39. **Administration Fee:** On default of payment of any instalment or of any of the moneys secured by the Charge or payable thereunder, the Chargee shall be entitled to require payment of a reasonable administrative fee notwithstanding that no proceedings have been taken by the Chargee under the Charge.
40. **Liens:** Upon the registration of any lien against the Land all monies hereby secured shall, at the option of the Chargee, forthwith become due and payable.
41. **Expropriation:** If the Land shall be expropriated by any Government, authority, body or corporation clothed with the powers of expropriation, the Principal Amount shall, at the option of the Chargee, forthwith become due and payable together with interest thereon at the said rate to the date of payment and together with a bonus equal to the greater of (1) the sum of (a) three months' interest at the said rate calculated on the Principal Amount, plus (b) one months' interest at the said rate calculated on the said amount for each full year and the part of a year remaining from the said date of payment to the date the Principal Amount sum or balance thereof remaining unpaid would otherwise under the provisions of the Charge become due and payable, and (2) the actual damages suffered by the Chargee as a result of such expropriation.
42. **Chargee Not in Possession:** It is agreed between the Chargor and the Chargee that the Chargee in exercising any of the rights given to the Chargee under the Charge shall be deemed not to be a Chargee in possession.
43. **Appointment of Receiver:** Notwithstanding anything herein contained it is declared and agreed that at any time and from time to time when there shall be default under the provisions of these presents the Chargee may at such time and from time to time and without entry into possession of the Land or any part thereof by writing under its hand appoint a receiver (which term shall include a receiver and manager) of the Land or any part thereof and of the rents and profits thereof and with or without security and may from time to time by similar writing remove any receiver and appoint another in his stead and that, in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor.
- Upon the appointment of any such receiver or receivers from time to time the following provisions shall apply:
- (a) That the statutory declaration of the Chargee as to default under the provisions of these presents shall be conclusive evidence thereof;
  - (b) That every such receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents falling due in respect of the Land or any part thereof whether in respect of any tenancies created in priority to these presents or subsequent thereto;
  - (c) That every such receiver may, in the discretion of the Chargee and by writing under its corporate seal, be vested with all or any of the powers and discretions of the Chargee;
  - (d) That the Chargee may from time to time by such writing fix the remuneration of every such receiver who shall be entitled to deduct the same out of the Land or the proceeds thereof;
  - (e) That every such receiver shall, so far as concerns responsibility for his acts or omissions, be deemed the agent or attorney of the Chargor and in no event the agent of the Chargee;
  - (f) That the appointment of every such receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a Chargee in possession in respect of the Land or any part thereof;
  - (g) That every such receiver shall from time to time have the power to rent any portion of the Land which may become vacant for such term and subject to such provisions as he may deem advisable or expedient and in so doing every such receiver shall act as the attorney or agent of the Chargor and he shall have authority to execute under seal any lease of any such portion of the Land in the name of and on behalf of the Chargor and the Chargor undertakes to ratify and confirm whatever any such receiver may do in the premises;
  - (h) That every such receiver shall have full power to complete any unfinished construction upon the Land with the intent that the Land and the buildings thereof when so completed shall be a completed structure as represented by the Chargor to the Chargee for the purpose of obtaining this Charge loan;
  - (i) That any such receiver shall have full power to carry on or concur in the carrying on of the business of the Chargor, and to employ and discharge such agents, workmen, accountants and other individuals or companies as are required to carry on the said business, upon such terms and with such salaries, wages or remuneration as he shall think proper, and to repair and keep in repair the lands and to do all necessary acts and things for the carrying on of the business of the Chargor and the protection of the Land;
  - (j) That any such receiver shall have the power to sell or lease or concur in selling or leasing any or all of the Land, or any part thereof, and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Chargor or otherwise; and any such sale may be made either as public auction or private sale as to him may seem best and such sale may be made from time to time as to the whole or any part or parts of the Land; and he may make any stipulations as to title or conveyance or commencement of title or otherwise which he shall deem proper;
  - (k) That any such receiver shall have the power to borrow money to carry on the business of the Chargor or to maintain the whole or any part of the Land, in such amounts as the receiver may from time to time deem necessary and in so doing the receiver may issue certificates that may be payable when the receiver thinks expedient and shall bear interests as stated therein and the amounts from time to time payable under such certificates shall charge the lands in priority to this Charge;
  - (l) That any such receiver shall have the power to execute and prosecute all suits, proceedings and actions which the receiver in his option considers necessary for the proper protection of the Land, to defend all suits, proceedings and actions against the Chargor and the receiver, to appear in and conduct the prosecution and defense of any suit, proceeding or action then pending or hereafter instituted and to appeal any suit, proceeding or action;
  - (m) That any such receiver shall have the full power to manage, operate, amend, repair, alter, or extend the Land, or any part thereof, in the name of the Chargor for the purpose of securing the payment of rental from the Land or any part thereof;

- (n) That any such receiver or Trustee shall not be liable to the Chargor to account for monies or damages other than cash received by him or it in respect to the Land or any part thereof and out of such cash so received every such receiver shall pay in the following order:
- (1) his remuneration;
  - (2) all payments made or incurred by him in connection with management, operation, amendment, repair, alteration or extension of the Land or any part thereof;
  - (3) in payment of interest, principal and other money which may from time to time be or become charged upon the charged premises in priority to monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by him in respect to the Land or any part thereof;
  - (4) in payment of all interest and arrears of interest and any other monies remaining unpaid hereunder;
  - (5) the residue of any money so received by him shall be applied on the principal sum or any other amounts from time to time owing under this Charge;
  - (6) it is acknowledged that in the event of default, the Chargee on its agent, shall be entitled to receive a fee for the management of the Land.

The Chargor hereby irrevocably appoints the Chargee and his attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Chargee and/or its solicitor so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Chargor and all parties dealing with the Chargor, the Chargee and/or the receiver or trustee and/or with respect to the charged premises in the same manner as if such documentation was duly executed by the Chargor himself.

44. **Additional Remedies:** The rights, powers and remedies conferred herein are supplementary to and not in substitution for any of the powers which the Chargee may have or be entitled to at law or otherwise. Any one or more remedies may from time to time be exercised independently of or in combination with any of the others.

#### **GENERAL**

45. **Chargor to Remain in Possession::** Until default of payment the Chargor shall have quiet possession of the said Land.

46. **Extensions:** No extension of time given by the Chargee to the Chargor, or anyone claiming under him, or any other dealing by the Chargee with the owner of the equity of redemption of the Land including the increase of the interest rate payable under the Charge shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other person liable for the payment of the moneys hereby secured, and the Charge may be renewed by an agreement in writing at any time, either before or after maturity for any term with or without an increased rate of interest notwithstanding that there may be subsequent encumbrancers. It shall not be necessary to register any such agreement in order to retain priority for the Charge so altered, including any increase in the interest rate, over any instrument registered subsequent to the Charge. Provided that nothing contained in this paragraph shall confer any right of renewal upon the Chargor. In the event that a Right of Renewal is to be provided by the Chargee to the Chargor, the Chargor acknowledges and agrees that upon accepting the terms of any such right to renew, it shall forthwith pay to the Chargee, as a condition of and in consideration for said right to renew, the amount of any renewal fee, placement fee, bonus or similar charge which shall be imposed upon the Chargor by the Chargee upon and as a condition for the said renewal.

47. **Assignment of Leases:** The Chargor hereby gives, grants, assigns, transfers and sets over unto the Chargee all leases and/or agreements, whether written, verbal or otherwise howsoever made including all renewals or extensions thereof, together with all rents and other moneys payable thereunder and all rights, benefits and advantages to be derived therefrom as may affect the Land or any part thereof; provided that nothing in pursuance hereof shall have or be deemed to have the effect of making the Chargee a Chargee or responsible for the collection of rent, or any part thereof, or any income or revenue whatsoever of and from the Land, or for the performance or observance of any covenants, terms or conditions contained in such lease or other agreement; provided further, that no future leases or renewals or amendments of leases may be given by the Chargor without the prior written consent of the chargee (not to be unreasonably withheld) and notwithstanding anything herein contained, no lease of the Land or any part thereof made by the Chargor without the consent in writing of the Chargee shall have priority over the Charge and also that forthwith after making any lease of the Land or any part thereof the Chargor will (if requested) execute and deliver to the Chargee an assignment in the Chargee'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 Chargee all such notices and other documents as may be required in order to render such assignment effectual in law.

The Chargor covenants and agrees that no rent has been or will be paid by any person in possession of any portion of the Land in advance, and that the payment of none of the rents to accrue for any portion of the Land has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by the Chargor.

The Chargor further covenants and agrees that it shall not perform any act or do anything or omit to do anything which will cause the default of any lease unless consented to by the Chargee in writing.

48. **Due on Sale:** Any change of ownership (beneficial or otherwise) or control of the Chargor, (if the Chargor is an incorporated company), or any transfer or sale of the Land, or part thereof, without the Chargee's prior written consent shall, at the sole discretion of the Chargee, constitute a default under the Charge, and the Principal Amount and interest shall, at the option of the Chargee immediately become due and payable. The Chargee may require as one of the terms for granting consent that such purchaser shall execute an assumption agreement in favour of the Chargee, it being specifically understood that the consent of the Chargee to the transfer or sale shall not release the Chargor or any Guarantor from any of the covenants herein contained. The Chargor shall pay to the Chargee all costs of the Chargee relating to the Chargee's review of the change of ownership contemplated hereby, including a reasonable administrative charge and the fees of the Chargee's solicitor, and such amounts shall be payable whether or not the consent of the Chargee to such change of ownership is granted.

49. **Financial Statements:** At the option of the Chargee, the Chargor shall within ninety (90) days of the end of each fiscal year of the operation of the Land by the Chargor, furnish to the Chargee an audited annual operating statement prepared at the expense of the Chargor, which statement notwithstanding the generality of the foregoing, shall set forth the gross rents and other revenue derived by the Chargor from the Land and the costs and expenses of the operation and maintenance of the Land and such information and explanations in respect of the foregoing as may be required by the Chargee and such statements shall be required to be prepared by a duly qualified chartered accountant and/or a certified public accountant suitable to the Chargee and the correctness of such statements shall be duly supported by the affidavit of a director or officer of the Chargor.

50. **Waiver:** The Chargor hereby waives any right of prepayment he may acquire pursuant to Section 10 of the *Interest Act* (Canada) and/or Section 17 of the *Mortgages Act* (Ontario) or any similar or successor sections or amendments thereto or any other statutory provision whether federal or provincial providing for the payment of the Principal Amount and accrued interest secured by the Charge prior to or otherwise than in accordance with the terms regarding the payment of Principal Amount and interest heretofore contained and covenants and agrees to be bound by and to observe such terms notwithstanding any statutory right of prepayment which now exists or which may hereafter exist. In addition, and without limiting the generality of the foregoing waiver, the date of the Charge for the purpose of the said sections shall be deemed to be the date for adjustment of interest as heretofore defined.

51. **Definitions:** In construing these presents the following words shall have the meanings defined herein:
- (a) "Charge", "Chargor" and "Chargee" shall have the meanings assigned to them in Section 1 of the *Land Registration Reform Act*, 1984.
  - (b) "Principal Amount" means the amount set out in Box 9(a) of the Charge, or the balance thereof from time to time as calculated pursuant to the terms hereof.
  - (c) "Interest Adjustment Date", "First Payment Date", "Last Payment Date" and "Balance Due Date" mean those dates set out in the Boxes 9(d), (f), (g) and (i), respectively, of the Charge.
  - (d) "Land" means the property described in Box 5 of the Charge including all buildings, fixtures (including those items set out in Paragraph 22 herein) and improvements situated thereon.
  - (e) "Successor" or "Successors" means an heir or heirs, an executor or executors, an administrator or administrators or an assign or assigns of the Chargor, and Guarantor(s) if any.
52. **Number and Gender:** "Chargor", "Chargee" and "Guarantor" and the personal pronoun "it", "he" or "his" relating thereto and used therewith, shall be read and construed as "Chargor" or "Chargors", "Chargee" or "Chargees", "Guarantor" or "Guarantors", and "his", "her", "their" or "its", respectively, as the number and gender of the party or parties referred to in each case require and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted.
53. **Headings:** The headings or titles and sections hereof have been inserted for ease of reference only and shall have no bearing on the interpretation of the Charge.
54. **Enurement:** All rights, advantages, privileges, immunities, powers and things hereby secured to the Chargor or Chargee shall be equally secured to and exercisable by it, her, or their Successors. All covenants, liabilities and obligations entered into or imposed hereunder upon the Chargor or Chargee shall be equally binding upon it, his, her or their Successors, and all such covenants and liabilities and obligations including any obligations of any Guarantor shall be joint and several.
55. **Date of Charge:** The date of the Charge unless otherwise provided shall be deemed to be the Interest Adjustment Date.
56. **Discharge:** The Chargee shall have a reasonable time after payment of the Charge moneys in full within which to prepare and execute a discharge of the Charge; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Chargee; and all legal and other expenses for the preparation and execution of such discharge shall be borne by the Chargor.
57. **Commitment Letter and Mortgage Application:** This Charge is being executed and delivered pursuant to a commitment letter or mortgage application between the Chargor and the Chargee. It is understood and agreed that all of the provisions of the said commitment letter or mortgage application including, without limitation, all conditions, representations, warranties and provisos contained therein are hereby incorporated by reference into this Charge, and into all other security documents being delivered in connection with the loan transaction herein, and into any other document requested by the Chargee or required to be delivered from time to time pursuant hereto in order to furnish the security agreed to be provided for the loan herein (all of which security documents or agreements are collectively referred to herein as the "Security Documents") and all such conditions, representations, warranties and provisos as contained in the aforementioned commitment letter or mortgage application shall not merge in any document delivered relating to the loan herein, but shall survive all such deliveries.
- It is understood and agreed that default under any one of the Security Documents, commitment letter or mortgage application, shall, at the option of the Chargee, constitute a default under all of said documents and that no remedy conferred under any of these documents is intended to be exhaustive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given or now existing or hereafter to exist by law or by statute.
- In the event that any representation or warranty to the Chargee by either the Chargor or any Guarantor contained in any of the Commitment Letter, the Mortgage Application, the within Charge or any of the other Security Documents, or in any other certificate or writing whatsoever delivered to the Chargee pursuant to any of the above is found to be incorrect, which in the opinion of the Chargee would increase the risk of the Chargee or lower the value of the security of the herein Charge, then such shall, at the sole option of the Chargee, constitute a default hereunder, and all monies secured herein shall, on demand, become immediately due and payable at the option of the Chargee.
58. **Interpretation:** If any of the forms of words contained herein are also contained in Column One of Schedule "B" of the Short Forms of Mortgages Act, R.S.O. 1980 CH 474 and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column Two of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the Short Forms of Mortgages Act were still in full force and effect.
59. **Severability Of Any Invalid Provisions:** If in the event that any covenant, term or provision contained in this Charge is held to be invalid, illegal or unenforceable in whole or in part, then the validity, legality and enforceability of the remaining covenants, provisions and terms shall not be affected or impaired thereby, and all such remaining covenants, provisions and terms shall continue in full force and effect. All covenants, provisions and terms hereof are declared to be separate and distinct covenants, provisions or terms as the case may be.

#### CONDOMINIUM PROVISIONS

60. (a) **Definitions:** In the event that the Land is registered under the Condominium Act R.S.O. 1980 or is proposed to be registered under the Condominium Act, it is agreed that the following definitions and provisions shall apply to this Charge:
- (i) "Declaration" means the Declaration which, together with a description, was registered pursuant to and subject to the provisions of the Condominium Act relating to the lands comprising the condominium of which the premises hereby charged constitute part, and extends to and includes all amendments thereto;
  - (ii) "Condominium Corporation" means the Corporation which was created by the registration of the Declaration and the description relating thereto;
  - (iii) "Common Expenses" means the expenses of the performance of the objects and duties of the Corporation and any expenses specified as common expenses in the Declaration;
  - (iv) "Insurance Trustee" means the insurance trustee appointed pursuant to the Declaration.
- (b) **Insurance Condominium:** Notwithstanding anything hereinbefore contained to the contrary, the Chargor covenants with the Chargee that the Chargor or the Condominium Corporation or both of them shall forthwith insure and, during the continuance of this Charge, keep insured in favour of the Chargee, against loss or damage by fire, the aforementioned unit and its appurtenant common interest, as well as each and every building which may hereafter be erected thereon both during erection and thereafter, for an amount of not less than the greater of the full insurable value of each and every building or the principal money hereby secured in dollars of lawful money of Canada.



The Chargor further covenants with the Chargee that the Chargor or the Condominium Corporation or both of them shall forthwith insure and, during the continuance of this Charge, keep insured, as the Chargee may require, the aforementioned unit and its appurtenant common interest, as well as each and every building on the said land and each and every building which may hereafter be erected thereon, both during erection and thereafter, against loss or damage by tempest, tornado, cyclone, lightning and such other risks and perils as the Chargee may deem expedient. In the case of commercial properties, this covenant shall, in addition, include boiler, plate glass, rental and public liability insurance in an amount satisfactory to the Chargee. Prior to the making of any advance by the Chargee, the Chargor or the Condominium Corporation or both of them shall forthwith assign, transfer and deliver over unto the Chargee each such policy and receipts relating thereto and evidence of payment of all premiums due. Should notice of cancellation of any such policy be given, the Chargor or the Condominium Corporation or both of them shall deliver to the Chargee evidence of renewal or replacement fifteen days in advance of the expiration of the same. Every policy of insurance shall be effected on such terms and with such insurer as may be approved by the Chargee. Mortgage clauses, stated amount co-insurance clauses and all such other clauses as the Chargee may require, all in a form approved by the Chargee, will be attached to and form part of all insurance policies. Loss under each policy shall be made payable to the Chargee as its interest may appear with reference in its favour over any claim of any other person.

Each policy shall be retained by the Chargee during the currency of this loan. Should an insurer at any time cease to have the approval of the Chargee, the Chargor or the Condominium Corporation or both of them shall effect such new insurance as the Chargee may require. In the event that the Chargor shall for any reason fail to keep the said premises so insured or fail to deliver the policies of insurance to the Chargee or fail to pay the premiums thereon, the Chargee, if it so elects, may have such insurance placed and pay the premiums thereon, and any premiums so paid shall be secured by this Charge and repaid by the Chargor in lawful money of Canada within ten (10) days after payment by the Chargee. In default hereof, the whole Principal Amount and interest and insurance premium with interest on such sum may be and shall become due at the election of the Chargee, anything herein to the contrary notwithstanding.

In the event of loss or damage, the Chargor or the Condominium Corporation or both of them shall notify the Chargee and the Chargor and the Condominium Corporation shall forthwith upon such event comply fully with the terms of the policy or policies of insurance, and without limiting the generality of any clause in this Charge or the obligation of the Chargor to observe and perform all the duties and obligations imposed by the Condominium Act and by the Declaration and By-laws of the Condominium Corporation, shall comply with the insurance provisions of the Declaration. Further the Chargor shall furnish at his own expense all necessary proofs and do all necessary acts to enable the Condominium Corporation or the Insurance Trustee pursuant to the insurance trust agreement between the Condominium Corporation and the Trustee to obtain payment of the insurance monies in accordance with this Declaration.

In the event of loss or damage, the Chargee shall have the right to apply the proceeds arising from the insurance policy wholly or in part in reduction of any principal then remaining unrepaid, notwithstanding that no amount at such time may be due and payable under the terms of repayment and/or of any other sums owing to it and/or in meeting costs of repair or reconstruction and/or to pay such proceeds in whole or in part to the Chargor or to the assigns of the Chargor, in which event the sum shall not be credited on the mortgage account, or partly in one or partly in other or others of manner. No damage may be repaired nor any reconstruction effected without the approval in writing of the Chargee. All of the foregoing covenants and provisions as to insurance shall apply to all buildings whether now or hereafter erected on the said lands. The Chargor, as a member of the Condominium Corporation, shall seek the full compliance by the Condominium Corporation of the aforementioned covenants.

- (c) *Observance — Declaration and By-laws: Common Expenses:* The Chargor covenants and agrees at all times and from time to time to observe and perform all duties and obligations imposed on him by the Condominium Act and by the Declaration and the By-laws as amended from time to time, of the Condominium of which this unit forms a part by virtue of his ownership of the said parcel. Any breach of the said duties and obligations shall constitute a breach of covenant under this Charge.

Without limiting the generality of the foregoing, the Chargor covenants to pay on or before the dates of payment, all monies due and payable pursuant to the provisions of the Declaration and By-laws, including any special assessments or common expenses required of him as an owner of the said lands. Upon failure to make said payments, the Chargee may, at its option, pay any such monies owing, whether or not any payment in default has priority to this Charge or any part of the monies secured hereby, and the amount paid by the Chargee shall be forthwith due and payable to the Chargee by the Chargor, together with interest at the aforesaid rate and shall be a charge upon the said lands to the same extent and effect as the principal monies and interest hereby secured. The Chargor covenants to transmit to the Chargee forthwith upon the demand of the Chargee, satisfactory proof that all common expenses or special assessments levied or assessed against the unit have been paid as assessed. Further, failure to make any such payment shall be deemed to be a default under the terms of this Charge and the Chargee may proceed to exercise its rights under the terms of this Charge as if and to the extent that the Chargor had failed to make the other payments required herein, whether or not such payments have actually been made by the Chargee.

The Chargor acknowledges that he has received a copy of the Declaration and By-laws (individually a "By-law" and collectively, the "By-laws") of the Corporation of which this unit forms a part and agrees to comply with the stipulations, restrictions, covenants and provisions therein and with the By-laws or Rules and Regulations passed pursuant thereto from time to time.

The Chargor covenants with the Chargee to deliver to the Chargee in person or by prepaid registered mail, a copy of the following:

- (i) each Notice of Meeting sent to the Chargor pursuant to the provisions of the Declaration and By-laws or the Condominium Act, either as owner of the unit or as a member of the Corporation, which copy is to be received by the Chargee at least five (5) days prior to the date upon which such meeting is fixed to convene;
- (ii) every claim against the Chargor or demand for payment from the Chargor, which claim or demand is pursuant to the provisions of the Declaration and By-laws, which copy is to be received by the Chargee at least five (5) business days prior to the date upon which such claim or demand becomes due and payable;
- (iii) every notice received by the Chargor of a breach by the Chargor of the provisions, restrictions, terms, specifications or stipulations set out in the Declaration and By-laws, which copy is to be received by the Chargee within five (5) days of the date upon which such notice is received by the Chargor;
- (iv) every request or claim for the consent of the Chargor affecting the unit or the common elements of the condominium plan, which copy is to be received by the Chargee within five (5) days of the date upon which such demand or request is received by or made of the Chargor;
- (v) any information known to the Chargor concerning the termination of the Management Agreement or Insurance Trust Agreement for the Corporation, such information to be delivered to the Chargee immediately upon the Chargor learning of the such information.

The Chargor by these presents does hereby charge his interest in the assets of the Corporation, which assets are now owned or may hereinafter be acquired by the Corporation, in a like manner as the lands charged in this Charge.

The Chargor covenants that he will not without permission in writing from the Chargee, do any act or fail to do any act which will or may have the effect of furthering any of the following:

- (i) the engagement by the Corporation of a management company or other person for the property who is not or who has not been actively engaged in the field of professional property management; or
- (ii) the leasing by the corporation of any of the common elements of the property.

The Chargor hereby grants unto the Chargee the right to inspect at reasonable times, and from time to time, all of the Corporation records as provided in the Declaration and By-laws and, if requested by the Chargee, shall direct and authorize the Corporation to do all things to enable the Chargee to so inspect the records.

Provided, and it is hereby agreed by and between the Chargor and the Chargee that, in the event that the government of the property included in the Condominium Plan is terminated, or in the event of the sale of the property or of a part of the common elements of the Condominium Plan being authorized by a vote of the owners of the units on the said Plan, then, in such event, the monies hereby secured shall forthwith become due and payable, at the option of the Chargee, and all the powers in and by this Charge conferred shall become exercisable, notwithstanding any consent given by the Chargee to such termination or sale.

(d) **Right to Vote:** The Chargee is hereby irrevocably authorized and empowered to exercise the right of the Chargor as an owner of the said lands to vote or to consent or to not vote or to refuse to consent in all matters relating to the affairs of the said Corporation without in any way consulting the Chargor in the manner in which the vote shall be exercised or not exercised and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Corporation was exercised or not exercised and provided that:

- (1) the Chargee shall not have the right to vote or consent as set forth in this paragraph unless it gives notice in writing to the Chargor and the said Condominium Corporation that the Chargee does intend to exercise the said right to vote or consent and in that event, until the Chargee revokes the said notice, the Chargor shall not exercise the right to vote or consent and the Chargee shall have such rights. Should the Chargee not give notice as foresaid of its intention to exercise its right to vote or give consent, then until the giving of such notice, the Chargor 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;
- (2) the Chargee shall not by virtue of the assignment to the Chargee of the right to vote or consent, be under any obligation to vote or consent or to protect the interest of the Chargor or to give the notice contemplated by Clause (1) above;
- (3) The exercise of the right to vote or consent shall not constitute the Chargee a Chargee in possession.

#### **GUARANTEE PROVISIONS**

In the event that the charge is executed by a guarantor or guarantors, the following shall be included in the Charge:

61. **Guarantee:** The Guarantor absolutely and unconditionally guarantees to the Chargee and its successors and assigns, the due and punctual payment by the Chargor of the Principal Amount, interest and other moneys owing under the Charge, and the Guarantor for himself and his Successors, covenants with the Chargee that if the Chargor shall at any time make default in the punctual payment of any moneys payable hereunder, he or they will pay all such moneys to the Chargee without any demand being required to be made.

62. **Principal Covenantor:** It is hereby expressly declared that although as between the Guarantor and the Chargor, the Guarantor is only surety for the payment by the Chargor of the moneys hereby guaranteed, as between the Guarantor and the Chargee the Guarantor shall be considered a principal covenantor under the Charge and primarily liable therefor and no release or releases of any portion or portions of the Land, and no indulgence shown by the Chargee in respect of any default by the Chargor or any successor which may arise under the Charge, and no extension or extensions granted by the Chargee to the Chargor or any successor for payment of the Charge moneys hereby secured or for the doing, observing or performing of any covenant, agreement, matter or thing herein contained, to be done, observed or performed by the Chargor or any successor nor any variation in or departure from the provisions of this Charge nor any other dealings between the Chargor or any successor and Chargee, including any variation or increase of the interest rate, nor any release of the chargor or any other thing whatsoever whereby the Guarantor as surety only would or might have been released shall in any way modify, alter, vary or in any way prejudice the Chargee or affect the liability of the Guarantor in any way under this covenant, which shall continue and be binding on the Guarantor, and as well after as before default and after as before maturity of the Charge, until the said Charge moneys are fully paid and satisfied. In the event of an increase in the interest rate the liability of the Guarantor shall continue to include the increased interest rate for which the Guarantor would be considered primarily liable. The Chargee shall not be bound to exhaust its recourse against the Chargor or the Land before being entitled to payment from the Guarantor of the amount hereby guaranteed by the Guarantor.

63. **Duty to Maintain Security:** Any failure on the part of the Chargee to perfect, maintain or enforce its rights whether due to default, negligence or otherwise on the part of the Chargee with respect to the Charge, or any other security granted to the Chargee relating to the within Charge, shall not prejudice the Chargee with respect to its rights pursuant to this guarantee and shall not discharge or limit or lessen the liability of the Guarantor pursuant to the terms hereof.

64. **Continued Liability of Chargor:** Any payment by the Guarantor of any moneys under this guarantee shall not in any event be taken to affect the liability of the Chargor for payment thereof but such liability shall remain unpaid and enforceable by the Guarantor against the Chargor and the Guarantor shall, to the extent of any such payments made by him, in addition to all other remedies be subrogated as against the Chargor to all the rights, privileges and powers to which the Chargee was entitled prior to payment by such Guarantor; provided, nevertheless, that the Guarantor shall not be entitled in any event to rank for payment against the Land in competition with the Chargee and shall not unless and until the Principal Amount, interest and other moneys owing on the security of the Charge shall have been paid, be entitled to any rights or remedies whatsoever in subrogation to the Chargee.

65. **Partial Releases:** The release of any of the Guarantors from his or their or any of their liability hereunder, whether before or after demand or before or after judgment, shall not affect the liability of the remaining Guarantor or Guarantors which shall remain unimpaired and still in full force and effect as if the Guarantor or Guarantors so released had not been party or parties to this Agreement.

66. **Variance of Terms:** The Chargee may vary any agreement or arrangement with the Guarantor and grant extensions of time to or otherwise deal with him, his executors or administrators, without any consent on the part of the Chargor.

67. **Guarantor's Covenants:** All covenants, liabilities and obligations entered into or imposed hereunder upon the Guarantor or Guarantors shall be equally binding upon his, or their heirs, executors, administrators and assigns, or successors and assigns as the case may be, and all such covenants and liabilities and obligations shall be joint and several. In addition all covenants of the Chargor shall be deemed to be the covenants of the Guarantor and the Guarantor shall be liable for the strict performance thereof.

68. **Residential Dwelling Privileges:** Where the Charge is on Land with a residential dwelling containing not more than three living units at least one of which is occupied continuously by the Chargor or an immediate family member, or is on a single residential condominium unit occupied continuously by the Chargor or an immediate family member, the following provisions shall apply:

- (a) the Chargor when not in default hereunder shall be entitled to repay an additional amount of principal, not in excess of 10% of the original Principal Amount hereby secured once in each calendar year without notice or bonus. This privilege shall be non-cumulative.
- (b) the Chargor, when not in default hereunder, shall be entitled upon written notice to the Chargee and payment of the Chargee's administration fee to:
  - (i) increase the amount of the monthly instalments required under the Charge once in each calendar year during the term of the Charge and any renewal thereof to an amount not in excess of 10% of the monthly instalment of principal and interest required under the Charge immediately prior to making such increase; and
  - (ii) after having made any increase in monthly instalment as contemplated by subparagraph (i) aforesaid, once in each year, to decrease the amount of the monthly instalments required under the Charge to an amount not less than the amount of the monthly instalments payable immediately prior to making the most recent increase under subparagraph (i) aforesaid.

The Chargor shall pay the increased or decreased monthly instalment pursuant to subparagraph (i) or (ii) as the case may be, in each and every month, commencing with the month in which such instalment is first paid and continuing until all monies owing under the Charge have been paid in full or until the outstanding balance is due hereunder, whichever is the earlier period. The privileges under subparagraphs (i) and (ii) are non-cumulative.

**SPOUSAL CONSENT**

69. **Spousal Consent:** The spouse of the Chargor, by its execution of the Charge, consents to the transaction evidenced by the Charge and releases all interest in the said Land including any interest arising under the *Family Law Act*.

**ACKNOWLEDGEMENT**

70. **Acknowledgement:** This set of Standard Charge Terms is included in a Charge dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, made by \_\_\_\_\_ as Chargor(s) to \_\_\_\_\_ acknowledges receiving and reviewing a copy of this set of Standard Charge Terms before signing this Charge.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_ — Chargor

\_\_\_\_\_ — Chargor

\_\_\_\_\_ — Guarantor

\_\_\_\_\_ — Guarantor