



STANDARD CHARGE TERMS  
CLAUSES TYPES DE CHARGE

COLLATERAL CHARGE/MORTGAGE

Filing No. 9626 Cote

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Page 1 of de 22 (Twenty-Two) Pages

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LAURENTIAN BANK OF CANADA

ONTARIO - STANDARD CHARGE TERMS

FILING NO. \_\_\_\_\_

LAND REGISTRATION REFORM ACT  
FILING DATE: \_\_\_\_\_, 1996

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 above Act.

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STANDARD CHARGE TERMS

1. DEFINED TERMS

UNLESS OTHERWISE expressly defined or otherwise required by the context, the following words and phrases shall have the following meanings when used in this Charge:

- (a) "Charge" means the Charge/Mortgage of Land to which these Standard Charge Terms are attached as a schedule or which refers to the filing number of these Standard Charge Terms, as the case may be, and all Schedules attached to such Charge/Mortgage of Land, and all amendments thereto and replacements thereof from time to time;
- (b) "Chargee" means all persons in whose favour this Charge is given and who is or are named in this Charge as chargee;
- (c) "Chargor" means all persons who have given this Charge and who have executed the same as Chargor;
- (d) "Costs" includes all costs and expenses of every nature and kind whatsoever incurred by the Chargee or paid by the Chargee to any other party in connection with the protection and preservation of the Lands or any other security held by the Chargee, or for the purpose of preserving and maintaining the enforceability and priority of this Charge and any such other security, or in connection with any and all demands and enforcement proceedings of every nature and kind made or carried out by or on behalf of the Chargee under or pursuant to this Charge, and includes, without limitation, legal costs incurred by the Chargee on a solicitor and client scale;
- (e) "Commitment" means each and every letter of commitment, loan approval, term sheet or other similar agreement establishing or pertaining to monies secured by this Charge or pursuant to which this Charge has been given, and all amendments thereto and renewals or replacements thereof from time to time;
- (f) "Condominium Corporation" means each corporation created pursuant to the *Condominium Act* (Ontario) and pertaining to all or any part of the Lands which are governed by the said Act;
- (g) "Covenantor" means any party to this Charge expressly defined as such and any and all persons who have directly, indirectly, as principal debtor or as surety covenanted to pay or guaranteed payment of the whole or any part of the amount or amounts secured by this Charge or which are owing under the loan facilities referred to in the Commitment or who have covenanted to perform or guaranteed performance by the Chargor of its obligations under this Charge or under the Commitment or under any security given in connection therewith;
- (h) "Hazardous Substance" means any hazardous waste or substance, pollutant, contaminant, waste or other substance, whether solid, liquid or gaseous in form, which when released into the natural environment may, based upon reasonably authoritative information then available concerning such substance, immediately or in the future directly or indirectly cause material harm or degradation to the natural environment or to the health or welfare of any living thing and includes, without limiting the generality of the foregoing,
  - (i) any such substance as defined or designated under any applicable laws and regulations for the protection of the environment or any living thing;
  - (ii) asbestos, urea formaldehyde, poly-chlorinated biphenyl (PCB) and materials manufactured with or containing the same; and
  - (iii) radioactive and toxic substances;
- (i) "Interest Rate" has the meaning ascribed thereto in the Schedule forming part of this Charge entitled "Collateral Mortgage Terms";
- (j) "Lands" means the lands, tenements, hereditaments and appurtenances and any estate or interest therein described in this Charge, and all buildings and improvements now or hereafter situate or constructed thereon, and all easements rights-of-way and other appurtenances thereto, and all structures, additions, improvements, machinery, equipment, decorations and other fixtures of every nature and kind (whether or not

affixed in law) attached thereto or placed, installed or erected thereon or used in connection therewith;

- (k) "Liabilities" has the meaning ascribed thereto in the Schedule forming part of this Charge entitled "Collateral Mortgage Terms";
- (l) "Obligor" has the meaning ascribed thereto in the Schedule forming part of this Charge entitled "Collateral Mortgage Terms";
- (m) "Principal Sum" has the meaning ascribed thereto in the Schedule forming part of this Charge entitled "Collateral Mortgage Terms";
- (n) "Receiver" means any receiver, receiver and manager, receiver-manager or trustee of the Lands as may be appointed from time to time by the Chargee pursuant to the provisions of this Charge or by any court of competent jurisdiction;
- (o) "Taxes" means all taxes, rates, assessments, local improvement charges, levies, penalties and other charges imposed upon or in respect of the Lands by any governmental authority having jurisdiction.

## 2. STATUTORY REFERENCES

UNLESS expressly stipulated or otherwise required by the context, all references in this Charge to any federal, provincial or municipal statute, regulation, by-law, order, directive or other governmental enactment shall be deemed to be and construed as a reference to the same as amended from time to time.

## 3. EXCLUSION OF STATUTORY COVENANTS

THE IMPLIED COVENANTS deemed to be included in a charge under subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded and replaced by the terms hereof which are covenants by the Chargor, for and on behalf of the Chargor, with the Chargee.

## 4. SHORT FORM OF MORTGAGES ACT

IF ANY of the forms of words contained herein are substantially in the form of words contained in Column One of Schedule B of the *Short Form of Mortgages Act*, R.S.O. 1980, c. 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 said Act was still in full force and effect.

## 5. PROVISO FOR REDEMPTION

PROVIDED this Charge to be void upon the Chargor, his heirs, executors, administrators, successors or assigns or any of them, paying on demand to the Chargee, its successors or assigns, the ultimate balance of the Liabilities and all promissory notes, bills of exchange and any other instruments whatsoever from time to time representing the Liabilities or any part thereof, together with interest thereon at a rate equal to the Interest Rate, calculated and payable monthly as well after as before demand, default and judgment, with interest on overdue interest at the same rate as on the Principal Sum, and all other amounts payable by the Chargor hereunder and paying any taxes, rates, levies, charges or assessments upon the Lands no matter by whom or what authority imposed and observing and performing all covenants, provisos and conditions herein contained.

## 6. RELEASE

AND the Chargor doth release to the Chargee all its claims upon the Lands subject to the proviso for redemption herein.

## 7. ADVANCE OF FUNDS

THE CHARGOR agrees that neither the preparation, execution nor registration of this Charge shall bind the Chargee to advance any monies hereby secured, nor shall the advance of any monies hereby secured bind the Chargee to advance any additional monies, but nevertheless

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the estate hereby charged shall take effect forthwith upon the execution of this Charge by the Chargor, and the expenses of the examination of the title and of this Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum herein not being advanced, the same to be charged hereby upon the Lands, and shall be without demand thereof, payable forthwith with interest at the Interest Rate, and in default the remedies herein shall be exercisable.

8. **CHARGOR'S COVENANTS**

THE CHARGOR covenants with the Chargee that the Chargor will pay the Principal Sum herein and interest and observe the proviso for redemption herein, and will pay as they fall due all Taxes and when required by the Chargee, shall transmit the receipts therefor to the Chargee;

THE CHARGOR further covenants with the Chargee that the Chargor will pay all amounts which are payable hereunder or which are capable of being added to the Principal Sum herein pursuant to the provisions of this Charge including, without limiting the generality of the foregoing, all servicing or other fees, costs or charges provided for herein; all insurance premiums; the amount paid for the supply of any fuel or utilities to the Lands; all costs, commissions, fees and disbursements incurred by the Chargee in constructing, inspecting, appraising, selling, managing, repairing or maintaining the Lands; all costs incurred by the Chargee, including legal costs on a solicitor and his own client basis, with respect to the Charge or the enforcement thereof or incurred by the Chargee arising out of or in any way related to this Charge; any amounts paid by the Chargee on account of any encumbrance, lien or charge against the Lands and any and all costs incurred by the Chargee arising out of, or in any way related to, the Chargee realizing on its security by sale or lease or otherwise;

AND THAT THE CHARGOR has a good title in fee simple to the Lands and has good right, full power and lawful and absolute authority to charge the Lands and to give this Charge to the Chargee upon the covenants contained in this Charge;

AND THAT 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 Lands, 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; and free from all encumbrances except as may be permitted by the Chargee in writing;

AND THAT THE CHARGOR will execute such further assurances of the Lands as may be requisite;

AND THAT THE CHARGOR will produce the title deeds and allow copies to be made at the expense of the Chargor;

AND THAT THE CHARGOR further agrees as follows:

- (a) That no part of any of the Liabilities existing at the date of this Charge or incurred or arising thereafter shall be deemed to be unsecured by this Charge;
- (b) That this Charge is and shall be continuing collateral security to the Chargee for the amount of the Liabilities and interest as herein provided and shall be deemed to be taken as security for the ultimate balance of such liabilities; AND these presents shall not, nor shall anything herein contained operate so as to, create any merger or discharge of any debt owing to the Chargee or of any lien, bond, promissory note, bill of exchange or other security held by or which may hereafter be held by the Chargee from the Chargor or other security held by or which may hereafter be held by the Chargee from the Chargor or from the Obligor or from any other person or persons and this Charge shall not in any way prejudicially affect any security held or which may hereafter be held by the Chargee for the Liabilities or any part thereof, or the liability of any endorser or any other person or persons upon any such lien, bond, bill of exchange, promissory note or other security or contract or any renewal or renewals thereof held by the Chargee for or on account of the Liabilities or any part or parts thereof, nor shall the remedies of the Chargee in respect thereof be prejudiced or delayed in any manner whatsoever by the taking of this Charge;
- (c) That any and all payments made in respect of the Liabilities and interest and the monies or other proceeds realized from the same of any securities held therefor

including this Charge may be applied and reapplied notwithstanding any previous application on such part or parts of the Liabilities or interest as the Chargee may see fit or may be held unappropriated in a separate collateral account for such time as the Chargee may see fit;

- (d) That the Chargee may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities and guarantees from and give the same and any and all existing securities and guarantees up to, may abstain from taking securities or guarantees from or from perfecting securities or guarantees of, may accept compositions from and may otherwise deal with the Chargor, the Obligor and all other persons, securities and guarantees as the Chargee may see fit without prejudicing the rights of the Chargee under this Charge;
- (e) That the taking of judgment in respect of any of the Liabilities or any instrument or instruments now or hereafter representing or evidencing the said liabilities or under any of the covenants herein or in any such instrument contained or implied shall not operate as a merger of the said liabilities or such instrument, instruments or covenants nor affect the Chargee's right to interest at the rate and times herein provided nor affect nor prejudice any rights or remedies given to the Chargee by the terms hereof.

9. **CHARGOR NOT OBLIGOR**

IN THE EVENT one or more of the Chargors is not also the Obligor, each such Chargor which is not also the Obligor (hereinafter in this paragraph 9 called "such Chargor") jointly and severally covenants with the Chargee as follows:

- (a) This Charge and the covenants, provisos, obligations and agreements on the part of the Chargor herein contained shall be the continuing obligation and liability of each such Chargor and shall cover all the liabilities and obligations of the Chargor hereunder and shall apply to and shall secure any ultimate balance of the monies secured or intended to be secured hereby;
- (b) The Chargee shall not be bound to exhaust its recourse against the Obligor or others or any securities (which term when used in this paragraph 9 includes guarantees) it may at any time hold before being entitled to payment from each such Chargor of the monies hereby secured and each such Chargor renounces all benefits of discussion and division;
- (c) This Charge and the liabilities and obligations of each such Chargor hereunder shall not be affected by the death or loss or diminution of capacity of the Obligor or of any such Chargor or by any change in the name of the Obligor or in the membership of the Obligor's firm through the death or retirement of one or more partners or the introduction of one or more other partners or otherwise, or by the acquisition of the Obligor's business by a corporation, or by any change whatsoever in the objects, capital, structure or constitution of the Obligor, or by the Obligor or the Obligor's business being amalgamated with a corporation or corporations or wound up or its corporate existence terminated but shall notwithstanding the happening of any such event continue to exist and apply to the full extent as if such event had not happened;
- (d) This Charge shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or times of any sum or sums of money for the time being due or remaining unpaid to the Chargee and all dividends, compositions, proceeds of security valued and payments received by the Chargee from the Obligor or from others or from estates shall be regarded for all purposes as payments in gross without any right on the part of any such Chargor to claim in reduction of his liability under this Charge the benefit of such dividends, compositions, proceeds or payments or any securities held by the Chargee or proceeds thereof, and none of such Chargors shall have the right to be subrogated in any rights of the Chargee until the Chargee shall have received payment in full of all the Liabilities, interest and all other monies payable by the Chargor hereunder;
- (e) All of the monies hereby secured or intended to be secured hereby shall be deemed to form part of the liabilities and the obligations of each such Chargor notwithstanding any lack or limitation of status or of power, incapacity or disability of the Obligor or of the directors, partners or agents thereof, or that the Obligor may not be a legal or suable entity, or any irregularity, defect or informality in the borrowing or obtaining of



such monies, advances, renewals or credits, or in the taking or registering of this Charge or any other securities, the whole whether known to the Chargee or not; and all the monies secured hereby or intended to be secured hereby shall be recoverable from each such Chargor as sole or principal debtor in respect thereof and shall be paid to the Chargee on demand with interest and accessories; and

- (f) Each such Chargor shall be bound by any account settled between the Chargee and the Obligor, and if no such account has been so settled immediately before demand of payment hereunder, any account stated by the Chargee shall be accepted by such Chargor and each of them as conclusive evidence of the amount which at the date of the account so stated is due by the Obligor to the Chargee or remains unpaid by the Obligor to the Chargee.

10. **COMPLIANCE WITH LAWS AND REGULATIONS**

THE CHARGOR shall, in its own right, operation and use of the Land, maintain and all

15. **HAZARDOUS SUBSTANCES**

THE CHARGOR and each Covenantor jointly and severally represent, warrant, covenant and agree that:

- (a) each has not and, to the best of their respective knowledge, information and belief after making due inquiry, no other person has caused or permitted any Hazardous Substance to be placed, stored, located or disposed of on, under or at the Lands;
- (b) they and their tenants, invitees and other occupiers of the Lands have and will at all times and, to the best of their respective knowledge, information and belief after making due inquiry, all prior owners and occupiers of the Lands have at all times carried out all business and other activities upon the Lands in compliance with all applicable laws intended to protect the environment including, without limitation, laws respecting the discharge, emission, spill or disposal of any Hazardous Substance;
- (c) no order, direction, enforcement action or other governmental or regulatory action or notice, nor any action, suit or proceeding relating to any Hazardous Substance or the environment has been issued or is otherwise threatened or pending with respect to the Lands;
- (d) each of the representations and warranties set out herein shall remain true and accurate in all respects up to and including the date of the first advance of funds hereunder and thereafter until all amounts secured hereunder are paid in full; and
- (e) the Chargee may delay or refuse to make any advance to the Chargor if the Chargee believes that any of the representations and warranties set out herein were not true and accurate when made or at any time thereafter.

THE CHARGOR shall permit the Chargee to conduct, at the Chargor's expense, any and all tests, inspections, appraisals and environmental audits of the Lands so as to determine and ensure compliance with the provisions of this paragraph including, without limitation, the right to conduct soil tests and to review and copy any records relating to the Lands or the businesses and other activities conducted thereon at any time and from time to time. The Chargor hereby grants to the Chargee and its employees and agents an irrevocable and non-exclusive licence to enter onto the Lands to conduct the activities referred to in this paragraph.

THE CHARGOR and each Covenantor jointly and severally agree to indemnify and save harmless the Chargee and its officers, directors, employees, agents and shareholders from and against any and all losses, damages, costs and expenses of every nature and kind whatsoever which at any time or from time to time may be paid or incurred by or asserted against any of them as a direct or indirect result of:

- (a) a breach of any of the representations, warranties or covenants hereinbefore set out;
- (b) the presence of any Hazardous Substance in, on or under the Lands; or
- (c) the discharge, emission, spill or disposal of any Hazardous Substance from the Lands into or upon any land, the atmosphere, any watercourse, body of water or wetland;

and the provisions of all representations, warranties, covenants and indemnifications set out herein shall survive the release and discharge of this Charge and any other security held by the Chargee and repayment and satisfaction of the monies secured by this Charge.

16. **INSPECTION**

THE CHARGEЕ shall have access to and the right to inspect the Lands at all times.

17. **TAXES**

WITH respect to Taxes, the Chargor covenants and agrees with the Chargee that:

- (a) The Chargee may deduct from any advance of any monies secured by this Charge an amount sufficient to pay all Taxes which have become due and payable during any calendar year.

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- (b) The Chargee may at its sole option estimate the amount of the Taxes payable in each year and the Chargor shall forthwith upon demand of the Chargee pay to the Chargee one-twelfth (1/12) of the estimated annual amount of such Taxes on the 1st day of each and every month during the term of this Charge commencing with the 1st day of the first full month of the term of this Charge. The Chargee may at its option apply such payments to the Taxes so long as the Chargor is not in default under any covenant or agreement contained in this Charge, but nothing herein contained shall obligate the Chargee to apply such payments on account of Taxes more often than yearly. Provided however, that if the Chargor shall pay any sum or sums to the Chargee to apply on account of Taxes, and if before such payments have been so applied by the Chargee, there shall be default by the Chargor in respect of any payment of principal or interest as herein provided, the Chargee may at its option apply such sum or sums in or towards payment of the principal and interest in default. If the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of Taxes, the Chargor may pay to the Chargee such additional amounts as are required for that purpose.
- (c) In the event that the Taxes actually charged in a calendar year, together with any interest and penalties thereon, exceed the amount estimated by the Chargee as aforesaid, the Chargor shall pay to the Chargee, on demand, the amount required to make up the deficiency. The Chargee may at its option, pay any of the Taxes when payable, either before or after they are due, without notice, or may make advances therefor in excess of the then amount of credit held by the Chargee for Taxes. Any excess amount advanced by the Chargee shall be secured as an additional Principal Sum under this Charge and shall bear interest at the Interest Rate until repaid by the Chargor.
- (d) The Chargor shall transmit to the Chargee all assessment notices, tax bills and other notices pertaining to the imposition of Taxes forthwith after receipt thereof.
- (e) The Chargor shall pay to the Chargee, in addition to any other amounts required to be paid hereunder, the amount required by the Chargee in its sole discretion for a reserve on account of future liability for Taxes.
- (f) In no event shall the Chargee be liable for any interest on any amount paid to it on account of Taxes and the monies so received may be held with its own funds pending payment or application thereof as herein provided; provided that in the event that the Chargee does not utilize the funds received on account of Taxes in any calendar year, such amount or amounts may be held by the Chargee on account of any pre-estimate of Taxes required for the next succeeding calendar year, or at the Chargee's option the Chargee may repay such amount to the Chargor without any interest.
- (g) The Chargor shall in all instances be responsible for the payment of any and all penalties resulting from any arrears of Taxes or any late payment of current instalments; and at no time shall such penalties be the responsibility of the Chargee.
- (h) In the event the Chargee does not collect payments on account of Taxes as aforesaid, the Chargor shall deliver to the Chargee on or before December 31st in each calendar year, written evidence from all taxing authorities having jurisdiction to the effect that all Taxes for the then current calendar year and any preceding calendar years have been paid in full, failing which, the Chargee shall be entitled to charge a servicing fee for each written inquiry directed to such taxing authorities or the Chargor for the purpose of ascertaining the status of the Taxes together with any costs payable to the such taxing authorities for such information.

18. UTILITIES

THE CHARGOR covenants that it will pay all utility and fuel charges related to the Lands as and when they are due and that the Chargor will not allow or cause the supply of utilities or fuel to the Lands to be interrupted or discontinued and that, if the supply of fuel oil or utilities is interrupted or discontinued, the Chargor will take all steps that are necessary to ensure that the supply of utilities or fuel is restored forthwith. It is specifically agreed that the failure to pay all fuel and utility charges as and when they are due or the interruption or discontinuing of the supply of fuel or utilities to the Lands shall constitute a default by the Chargor within the meaning of this Charge and in addition to all other remedies provided for herein, the

Principal Sum of the Charge shall, at the sole option of the Chargee forthwith become due and payable.

19. **INSURANCE**

AND THAT the Chargor will insure and keep insured during the term of this Charge the buildings and other improvements on the Lands (now or hereafter erected) on an all-risks basis in an amount of not less than the greater of the full replacement value of the buildings located thereon from time to time, or the Principal Sum herein, with no co-insurance provisions and with the Chargee's standard mortgage clause forming part of such insurance policy. The Chargor shall carry such liability, rental, boiler, plate glass and other insurance coverage as is required by the Chargee to be placed with such insurance companies and in such amounts and in such form as may be acceptable to the Chargee. All such policies shall provide for loss payable to the Chargee and contain such additional clauses and provisions, such as an acceptable replacement cost endorsement, as the Chargee may require. An original of all insurance policies and endorsements from the insurer to the effect that coverage has been initiated and/or extended for a minimum period of at least one year and that all premiums with respect to such term of such coverage have been paid for in full, shall be produced to the Chargee prior to any advance and at least thirty (30) days before expiration of any term of any such respective policy, failing which the Chargee may provide therefor and charge the premium paid therefor and interest thereon at the Interest Rate to the Chargor and any amounts so paid by the Chargee shall be payable forthwith to the Chargee and shall also be a charge upon the Lands and secured by this Charge. It is further agreed that the Chargee may at any time require any insurance on the said buildings to be cancelled and new insurance effected with a company to be named by it, and also may, of its own accord, effect or maintain any insurance herein provided for, and any amount paid by the Chargee therefor shall be forthwith payable to it, together with interest at the rate aforesaid, by the Chargor (together with any costs of the Chargee as herein set out), and shall be a charge upon the Lands and secured by this Charge.

IN THE EVENT that the evidence of continuation of such insurance as herein required has not been delivered to the Chargee within the required time, the Chargee shall be entitled to a servicing fee for each written inquiry which the Chargee shall make to the insurer or the Chargor pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the Lands, the Chargee, in addition to the aforesaid servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

IN THE EVENT of any loss or damage, the Chargor shall forthwith notify the Chargee in writing and notwithstanding any other provision to the contrary, statutory or otherwise, in the event of any monies becoming payable pursuant to any insurance policy herein required, the Chargee may, at its option, require the said monies to be applied by the Chargor in making good the loss or damage in respect of which the money is received, or in the alternative, may require that any or all of the monies so received be applied in or towards satisfaction of any or all of the indebtedness hereby secured whether or not such indebtedness has become due. No damage may be repaired nor any reconstruction effected without the approval in writing of the Chargee in any event.

THE CHARGOR, upon demand, will transfer all policies of insurance provided for herein and the indemnity which may become due therefrom to the Chargee. The Chargee shall have a lien for the indebtedness hereby secured on all the said insurance proceeds and policies, and may elect to have these insurance monies applied as it may deem appropriate, including payment of monies secured hereby, whether due or not, but the Chargee shall not be bound to accept the said monies in payment of any principal not yet due.

20. **APPLICATION OF PAYMENTS**

NOTWITHSTANDING anything herein to the contrary, the Chargee may apply any payments received in whatever order the Chargee may elect as between principal, interest, realty taxes, insurance premiums, repairs, costs and any other advances or payments made by the Chargor hereunder.

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21. RECEIPT OF PAYMENT

ANY payment received after 2:00 p.m. on any date shall be deemed, for the purpose of calculation of interest to have been made and received on the next bank business day and the Chargee shall be entitled to interest on the amount due it, to and including the date on which the payment is deemed by this provision to have been received.

22. NO DEEMED RE-INVESTMENT

THE PARTIES hereto agree that the Chargee shall not be deemed to reinvest any monthly or other payments received by it hereunder.

23. CHARGOR REMAINS LIABLE

PROVIDED further that the terms of this Charge may be amended from time to time by mutual agreement between the Chargor and the Chargee and the Chargor hereby further covenants and agrees that, notwithstanding that the Chargor may have disposed of his interest in the Lands hereby secured, the Chargor will remain liable as a principal debtor and not as a surety for the observance of all of the terms and provisions herein and will in all matters pertaining to this Charge well and truly do, observe, fulfil and keep all and singular the covenants, provisos, conditions, agreements and stipulations in this Charge or any amendment or extension thereof notwithstanding the giving of any indulgence by the Chargee to the Chargor.

24. CONSTRUCTION LIENS

THE CHARGEES may at its option, withhold from any advances for which the Chargor may have qualified, such holdbacks as the Chargee, in its sole discretion, considers advisable to protect its position under the provisions of the *Construction Lien Act* (Ontario) so as to secure its priority over all liens, until the Chargee is fully satisfied that all lien periods have expired and that there are no preserved or perfected liens outstanding. Nothing in this clause shall be construed to make the Chargee an "owner" or "payer" as defined under the *Construction Lien Act* (Ontario) nor shall there be, or be deemed to be, any obligation by the Chargee to retain any holdback which may be required by the said legislation. Any holdback which may be required to be made by the owner or payer shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of the *Construction Lien Act* (Ontario).

25. EXPROPRIATION

IF the Lands or any part thereof shall be expropriated by any government, authority, body or corporation clothed with the powers of expropriation, the Principal Sum hereby secured shall at the option of the Chargee forthwith become due and payable together with interest thereon at the Interest Rate to the date of payment and in any event all the proceeds of any expropriation shall be paid to the Chargee at its option in priority to the claims of any other party.

26. SALE OR CHANGE OF CONTROL

PROVIDED that in the event of a further encumbrance or a sale, conveyance or transfer of the Lands or any-portion thereof, or a change in control of the Chargor or a change in the beneficial ownership of the Lands or any portion thereof or a lease of the whole of the Lands, all sums secured hereunder shall, at the Chargee's option, become due and payable forthwith unless the written consent of the Chargee has been first obtained, which consent may be arbitrarily or unreasonably withheld. The rights of the Chargee pursuant to this provision shall not be affected or limited in any way by the acceptance of payments due under this Charge from the Chargor or any person claiming through or under him and the rights of the Chargee hereunder shall continue without diminution for any reason whatsoever until such time as the Chargee has consented in writing as required by this provision.

PROVIDED further that no permitted sale or other dealing by the Chargor with the Lands 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 monies hereby secured.

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27. EVENTS OF DEFAULT

WITHOUT limiting any of the provisions of this Charge, each of the following events shall be considered events of default hereunder upon the happening of which the whole of the Principal Sum outstanding and all interest accruing thereon shall, at the Chargee's option, immediately become due and payable without notice or demand:

- (a) Failure by the Chargor, the Obligor or any Covenantor to pay any instalment of principal, interest and/or taxes secured by or under this Charge or under any charge or other encumbrance of the Lands, on the date upon which any of the payments for same become due;
- (b) Failure by the Chargor, the Obligor or any Covenantor to strictly and fully observe or perform any condition, agreement, covenant or term set out in the application or Commitment for the loan or loans secured by this Charge, the provisions of this Charge, or any other document giving contractual relationship as between them or any of them or if it is found at any time that any representation to the Chargee with respect to monies secured by this Charge or in any way related thereto is incorrect or misleading;
- (c) Default by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any charge or other encumbrance affecting the Lands, whether or not it has priority over this Charge;
- (d) Upon the registration of any construction lien against the Lands which is not discharged or vacated within a period of fourteen (14) days after the date of registration thereof;
- (e) In the event that any Hazardous Substance is discovered in, on or under the Lands or any part thereof and the same is not completely removed therefrom to the entire satisfaction of the Chargee within fourteen (14) days after demand therefor by the Chargee;
- (f) In the event that the Lands are abandoned or there is any cessation of the business activities or any material part thereof now being conducted upon the Lands by the Chargor, the Obligor or the beneficial owner of the Lands or any of their respective officers, agents, employees, tenants or invitees;
- (g) If the Chargor, the Obligor or any Covenantor commits an act of bankruptcy or becomes insolvent or has a receiver or receiver and manager appointed for any of them or over any of their assets or if any creditor takes possession of any of their assets or if any execution, distress or other like process is levied or enforced upon any of their assets, the Lands or any part thereof or if any compromise or arrangement with creditors is made by any of them; and
- (h) If, in respect of any lease or tenancy relating to the Lands or a portion thereof, the Chargor fails to comply with the provisions of the *Rent Control Act*, S.O. 1992 or any other legislation applicable to the leasing of residential premises.

28. DEFAULT

PROVIDED that the Chargee may, on default of payment or in the performance of any covenant in this Charge contained or implied by law or statute, enter on and lease the Lands or in default of payment or in default in performance of any covenant in this Charge contained or implied by law or statute for at least fifteen (15) days may, on at least thirty-five (35) days' notice sell the Lands. Such notice shall be given to such persons and in such manner and form and within such time as provided under the *Mortgages Act*, as amended from time to time. 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 Lands, if occupied, or by placing it on the Lands 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 Lands are 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. If there be legal personal representatives of the Chargor on the death of the Chargor, such

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notice may, at the option of the Chargee, be given in any of the above modes or by personal service upon such representatives.

PROVIDED FURTHER, without prejudice to the statutory powers of the Chargee under the preceding proviso, that in case default be made in the payment of the said principal or interest or any part thereof and such default continues for two months after any payment of either principal or interest falls due, the Chargee may exercise the powers given under the preceding proviso with or without entry on the Lands 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.

AND that the Chargee may sell the whole or any part or parts of the Lands by public auction or private contract, or partly one or partly the other; and that 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 Lands or by reason of non-payment or procuring payments of monies secured hereby or otherwise; and that the Chargee may sell any of the Lands on such terms as to credit and otherwise as shall appear to him most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulations as to title or evidence or commencement of title or otherwise which it shall deem proper; and may



PROVIDED that the Chargee may lease or sell as aforesaid without entering into possession of the Lands.

PROVIDED that the Chargee may distrain for arrears of interest and that the Chargee may distrain for arrears of principal and arrears of Taxes in the same manner as if the same were arrears of interest.

PROVIDED that in default of the payment of the interest hereby secured the principal hereby secured shall become payable at the option of the Chargee, together with interest thereon.

PROVIDED that upon default of payment of instalments of principal promptly as the same become due, the balance of the principal and interest shall immediately become due and payable at the option of the Chargee.

PROVIDED that, upon default under this Charge, the Chargee shall be entitled and shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter.

PROVIDED that until default hereunder the Chargor shall have quiet possession of the Lands.

AND that on default the Chargee shall have quiet possession of the Lands.

PROVIDED that 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 the principal secured herein shall be as set out in the proviso for redemption herein. Any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default. No waiver shall be effective or binding on the Chargee unless made in writing.

AND it is further agreed by and between the parties that the Chargee may at its discretion at any time, release any part or parts of the Lands or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the Lands or any person from this Charge or from any of the covenants herein contained, it being especially agreed that every part or lot into which the Lands are or may hereafter be divided does and shall stand charged with all of the monies hereby secured and no person shall have the right to require the principal secured hereunder to be apportioned; further the Chargee shall not be accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee. No sale or other dealing by the Chargor with the equity of redemption in the Lands 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 monies hereby secured.

IT IS FURTHER agreed that the Chargee may exercise all remedies provided for in this Charge concurrently or in such order and at such times as it may see fit and shall not be obligated to exhaust any remedy or remedies before exercising its rights under any other provisions contained in this Charge.

AND without limiting any other provision of this Charge, the Chargor acknowledges and agrees that, upon the occurrence of any default under this Charge, the Chargee may, at any time and from time to time as the Chargee shall determine at its sole option and discretion, advance such further sums under this Charge as are necessary to pay any arrears of Taxes, utilities or other charges capable of constituting a lien upon the Lands pari passu with or in priority to this Charge, to pay all amounts due under any encumbrance having priority over this Charge, to pay all amounts required to discharge or vacate any construction lien registered against the Lands whether or not priority is claimed over this Charge, to maintain in good standing any policies of insurance in respect of the Lands, to maintain, repair, operate and/or manage the Lands and any or all improvements thereon, to complete construction or renovation of any improvements on the Lands, to realize upon any security held by the Chargee for the monies secured by this Charge and generally to enforce all of the Chargee's rights, title and interest hereunder and to protect the Lands and to preserve the enforceability and priority of this Charge, and to pay any and all Costs; and all amounts advanced by the Chargee for any of the purposes as aforesaid shall bear interest at the Interest Rate from the date so advanced until repaid in full and shall be secured by this Charge in the same priority as the principal amount hereof.

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29. RIGHT OF CHARGEES TO REPAIR

THE CHARGOR covenants and agrees with the Chargee that in the event of default in the payment of any monies payable hereunder by the Chargor or on breach of any covenant, proviso or agreement herein contained, the Chargee may, at such time or times as the Chargee may deem necessary and without the concurrence of any person, enter upon the Lands and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Lands or for inspecting, taking care of, leasing, collecting the rents of and generally managing the Lands, as the Chargee may deem expedient; and all reasonable costs, charges and expenses including, but not limited to, allowances for the time and services of any employee of the Chargee or other person appointed for the above purposes, and a servicing fee shall be forthwith payable to the Chargee by the Chargor and shall be a charge upon the Lands and shall bear interest at the Interest Rate until paid.

30. APPOINTMENT OF A RECEIVER

IT IS DECLARED and agreed that at any time and from time to time when there shall be default under the provisions of this Charge, the Chargee may at such time and from time to time and with or without entering into possession of the Lands appoint in writing a Receiver of the Lands, 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 such Receiver and appoint another in its place and stead, and in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor. The Chargor hereby irrevocably agrees and consents to the appointment of such Receiver of the Chargee's choice and without limitation whether pursuant to this Charge, the *Mortgages Act* (Ontario), the *Construction Lien Act* (Ontario), or the *Trustee Act* (Ontario) as the Chargee may at its sole option require. Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the Lands or any part thereof and the Chargor hereby consents to a Court Order for the appointment of such Receiver, if the Chargee in its discretion chooses to obtain such order, and on such terms and for such purposes as the Chargee at its sole discretion may require, including, without limitation, the power to manage, charge, pledge, lease and/or sell the Lands and/or to complete or partially complete any construction thereon and to receive advances of monies pursuant to any charges, pledges and/or loans entered into by the Receiver or the Chargor, and if required by the Chargee, in priority to any existing encumbrances affecting the Lands, including without limitation, charges and construction lien claims.

UPON the appointment of any such Receiver from time to time the following provisions shall apply:

- (a) A Statutory Declaration made by the Chargee or by any authorized representative of the Chargee as to default under the provisions of this Charge shall be conclusive evidence thereof;
- (b) Every such Receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents falling due in respect to the Lands, or any part thereof, whether in respect of any tenancies created in priority to this Charge or subsequent thereto and with respect to all responsibility and liability for its acts and omissions;
- (c) The Chargee may from time to time fix the remuneration of every such Receiver which shall be a charge on the Lands, and may be paid out of the income therefrom or the proceeds of sale thereof;
- (d) 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 Lands or any part thereof;
- (e) The Receiver shall have the power to rent any portion of the Lands for such term and subject to such provisions as it may deem advisable or expedient and shall have the authority to execute any lease of the Lands or any part thereof in the name and on behalf of the Chargor and the Chargor undertakes to ratify and confirm, and hereby ratifies and confirms whatever acts such Receiver may do on the Lands;

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- (f) In all instances, the Receiver shall be acting as the attorney or agent of the Chargor;
- (g) Every such Receiver shall have full power to complete any unfinished construction upon the Lands;
- (h) Such Receiver shall have full power to manage, operate, amend, repair, alter or extend the Lands or any part thereof in the name of the Chargor for the purposes of securing the payment of rental from the Lands or any part thereof;
- (i) The Receiver shall have full power to assume control of, manage, operate and carry on the business of the Chargor being conducted at or upon the Lands on the date of this Charge or at any time thereafter;
- (j) The Receiver shall have full power to do all acts and execute all documents which may be considered necessary or advisable in order to protect the Chargee's interest in the Lands including, without limiting the generality of the foregoing, increasing, extending, renewing or amending all charges, mortgages and other encumbrances which may be registered against the Lands from time to time, whether or not any of the same are prior to the interest of the Chargee in the Lands; sale of the Lands; borrowing money on the security of the Lands; applying for and executing all documents in any way related to any re-zoning applications, severance of lands pursuant to the provisions of the *Planning Act*, as amended, subdivision agreements and development agreements and agreements for the supply or maintenance of utilities or services to the Lands, including grants of lands or easements or rights of way necessary or incidental to any such agreements; executing all grants, documents, instruments and agreements related to compliance with the requirements of any competent governmental authority, whether pursuant to a written agreement or otherwise and applying for and executing all documents in any way related to registration of the Lands as a condominium; completing any application for first registration pursuant to the provisions of the *Land Titles Act* (Ontario) or pursuant to the Certification of *Titles Act* (Ontario); and for all and every of the purposes aforesaid it does hereby give and grant unto the Receiver full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done as aforesaid in and about the Lands, and to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the Lands, as fully and effectually to all intents and purposes as it itself could do if personally present and acting therein.
- (k) Such Receiver shall not be liable to the Chargor to account for monies or damages other than cash received by it in respect of the Lands or any part thereof and out of such cash so received every such Receiver shall pay in the following order:
  - (i) its remuneration;
  - (ii) all payments made or incurred by it in the exercise of its powers hereunder;
  - (iii) any payment of interest, principal and other money which may from time to time be or become charged upon the Lands in priority to the monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by it in respect of the Lands or any part thereof.

THE CHARGOR hereby irrevocably appoints the Chargee as 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 solicitors 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 and/or with respect to the Lands in the same manner as if such documentation was duly executed by the Chargor himself.

31. **CHARGE NOT TO BE DEEMED CHARGE IN POSSESSION**

PROVIDED and it is agreed between the Chargor and the Chargee that the Chargee in exercising any of the rights given to the Chargee under this Charge shall be deemed not to be a chargee or mortgagee in possession.

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32. **ENFORCEMENT OF ADDITIONAL SECURITY**

IN THE EVENT that, in addition to the Lands charged hereby, the Chargee holds further security on account of the monies secured hereby, it is agreed that no single or partial exercise of any of the Chargee's powers hereunder or under any of such security, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such security. The Chargee shall at all times have the right to proceed against all, any, or any portion of such security in such order and in such manner as it shall in its sole discretion deem fit, without waiving any rights which the Chargee may have with respect to any and all of such security, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor under the remaining security, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Chargee with respect to any and all such security shall be at an end.

33. **TAKING OF JUDGEMENT NOT A MERGER**

THE taking of a judgement or judgements 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 herein provided; and further that the said judgement shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgement shall have been fully paid and satisfied.

34. **BANKRUPTCY AND INSOLVENCY ACT**

THE CHARGOR acknowledges and agrees that any and all Costs as may be incurred from time to time by the Chargee in order to effect compliance or avoid any adverse ramifications of the *Bankruptcy and Insolvency Act* (Canada) shall be entirely for the account of the Chargor. The Chargee shall be entitled to incur any such Costs, including any costs of its personnel in administering any requirements of the said Act and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Chargee for the indebtedness owing to the Chargee in the same manner and in the same priority as the principal secured hereunder.

35. **NON-MERGER**

NOTWITHSTANDING the registration of this Charge and the advance of funds pursuant hereto, the terms and conditions of the Commitment shall remain binding and effective on the parties hereto, and shall not merge in this Charge nor in any document executed and delivered to the Chargee in connection with the transaction contemplated by the Commitment, and the terms of the Commitment are incorporated herein by reference.

36. **NOTICES**

ALL NOTICES or other communications to be given pursuant to or in connection with this Charge shall be in writing, signed by the party giving such notice or by its solicitors, and shall be personally delivered or sent by registered mail or facsimile transmission to the party or parties intended at its or their respective addresses for service as set out in this Charge. Any party may from time to time by notice given as provided herein change its address for the purpose of this provision.

37. **PRIORITY OVER VENDOR'S LIEN**

THE CHARGOR hereby acknowledges that this Charge is intended to be prior to any vendor's lien, whether in favour of the Chargor or otherwise, and the Chargor covenants that he has done no act to give priority over this Charge to any vendor's lien, nor is he aware of any circumstances that could create a vendor's lien. Further, the Chargor covenants to do all acts and execute or cause to be executed all documents required to give this Charge priority over any vendor's lien and to give effect to the intent of this clause.

38. **CONSENT OF CHARGE**

WHEREVER the Chargor is required by this Charge to obtain the consent or approval of the Chargee, it is agreed that, subject to any other specific provision contained in this Charge to the contrary, the Chargee may give or withhold its consent or approval for any reason that it may see fit in its sole and absolute discretion, and the Chargee shall not be liable to the

Chargor in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such approval shall be for the account of the Chargor.

39. **FAMILY LAW ACT (ONTARIO)**

THE CHARGOR shall forthwith after any change or happening affecting any of the following, namely, (a) the spousal status of the Chargor, (b) the qualification of the Lands or any part thereof as a matrimonial home within the meaning of Part II of the *Family Law Act* (Ontario), (c) the ownership of the equity of redemption in the Lands or any part thereof, and (d) a shareholder of the Chargor obtaining rights to occupy the Lands or any part thereof by virtue of shareholding within the meaning of Section 18(2) of the *Family Law Act* (Ontario), or any successor provision thereof, as the case may be, the Chargor will advise the Chargee accordingly and furnish the Chargee with full particulars thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner or owners for the time being of the said equity of redemption and of any spouse who is not an owner but who has a right of possession in the Lands by virtue of Section 19 of the *Family Law Act* (Ontario) or any successor provision thereof. In furtherance of such intention, the Chargor covenants and agrees to furnish the Chargee with such evidence in connection with any of (a), (b) (c), and (d) above as the Chargee may from time to time request.

40. **INDEPENDENT LEGAL ADVICE**

THE CHARGOR and Covenantor(s) acknowledge that they have full knowledge of the purpose and essence of this transaction, and that they have been appropriately and independently legally advised in that regard or have been advised of their right to independent legal advice and have declined same. Such parties agree to provide to the Chargee a Certificate of Independent Legal Advice as and when same may be required by the Chargee, regarding their knowledge and understanding of this transaction.

41. **DISCHARGE**

THE CHARGEES shall have a reasonable period of time after payment in full of the monies hereby secured within which to prepare and execute a discharge of this Charge; and interest at the Interest Rate 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, together with the Chargee's fee for providing same, be borne by the Chargor. The discharge shall be prepared and executed by such persons as are specifically authorized by the Chargee and the Chargee shall not be obligated to execute any discharge other than a discharge which has been so authorized.

IF THIS Charge, the Commitment or any other document provides for the giving of partial discharges of this Charge, it is agreed that, notwithstanding any other provision to the contrary, the Chargor shall not be entitled to request or receive any such partial discharge if and for so long as the Chargor is in default under this Charge, the Commitment or such other document.

42. **SERVICING FEES**

ALL servicing fees as herein provided are intended to compensate the Chargee for the Chargee's administrative costs and shall not be deemed a penalty. The amount of such servicing fees if not paid shall be added to the principal amount secured hereunder, and shall bear interest at the Interest Rate and the Chargee shall have the same rights with respect to collection of same as it does with respect to collection of principal and interest hereunder or at law.

43. **INTERPRETATION**

PROVIDED and it is hereby agreed that, in construing this Charge, everything herein contained shall extend to and bind and may be enforced or applied by the respective heirs, executors, administrators, successors in office, successors and assigns, as the case may be, of each and every of the parties hereto, and where any of the Chargor, the Chargee and any Covenantor is more than one person, their respective covenants shall be deemed to be joint and several, and the provisions of this Charge shall be read and construed with all changes of gender and number as required by the context.

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44. HEADINGS

THE headings with respect to the various paragraphs of this Charge are intended to be for identification of the various provisions of this Charge only and the wording of such headings is not intended to have any legal effect.

45. INVALIDITY

IF ANY of the covenants or conditions in this Charge inclusive of all schedules forming a part hereof shall be void for any reason it shall be severed from the remainder of the provisions hereof and the remaining provisions shall remain in full force and effect notwithstanding such severance.

46. COUNTERPARTS

THIS CHARGE may be executed and/or registered in counterparts, each of which so executed, and/or registered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, and notwithstanding their date of execution shall be deemed to bear date as of the date above written.

47. CONDOMINIUM PROVISIONS

PROVIDED THAT if all or any part of the Lands is or becomes a condominium unit pursuant to the provisions of the *Condominium Act* (Ontario), the following covenants and provisions shall apply in addition to all other covenants and provisions set forth in this Charge:

- (a) For the purposes of all parts of the Lands comprising one or more such condominium units, all references in this Charge to the Lands shall include the Chargor's appurtenant undivided interest in the common elements and other assets of the Condominium Corporation;
- (b) The Chargor shall at all times comply with the *Condominium Act* (Ontario) and shall forward to the Chargee proof of such compliance as the Chargee may request from time to time including, without limitation, estoppel certificates issued by the Condominium Corporation; and if the Chargor fails to so comply in any respect, the Chargee may do so at its option and all costs and expenses incurred by the Chargee in connection therewith shall be secured by this Charge and payable by the Chargor to the Chargee forthwith upon demand, together with interest thereon as herein provided;
- (c) The Chargor shall pay, when due, all monies payable by the Chargor or with respect to the Lands in accordance with the provisions of the *Condominium Act* (Ontario) and the declaration, by-laws and rules of the Condominium Corporation, including all required contributions to common expenses and any special levies, charges and assessments, and shall provide proof of such payment to the Chargee upon request; and if the Chargor fails to make any such payment, the Chargee may do so at its option and all amounts so paid by the Chargee shall be secured by this Charge and shall be payable by the Chargor to the Chargee forthwith upon demand, together with interest thereon as herein provided;
- (d) The Chargor hereby irrevocably appoints, authorizes and empowers the Chargee to exercise the rights of the Chargor to vote or to consent as an owner within the meaning of the *Condominium Act* (Ontario) with respect to all matters relating to the affairs of the Condominium Corporation, or to abstain from doing so, provided that:
  - (i) the Chargee may at any time and from time to time give notice in writing to the Chargor and to the Condominium Corporation that the Chargee does not intend to exercise such right to vote or to consent, in which case the Chargor may exercise its right to vote or to consent for so long as such notice remains effective or until such notice is revoked by the Chargee; and any such notice may be for an indeterminate period of time, a limited period of time or for a specific meeting or matter;
  - (ii) the Chargee shall not be under any obligation to vote or to consent or to protect the interests of the Chargor; and

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- (iii) the exercise by the Chargee of its right to vote or to consent or to abstain from doing so shall not constitute the Chargee as a mortgagee or chargee in possession and shall not give rise to any liability on the part of the Chargee;
- (e) The Chargor shall forward to the Chargee by delivery or by prepaid registered mail copies of every notice, assessment, claim, demand, by-law, rule, request for consent and other communication relating to all or any part of the Lands or the common elements or affairs of the Condominium Corporation on or before the date which is the earlier of:
  - (i) fourteen (14) days after receipt of the same by the Chargor;
  - (ii) seven (7) days prior to the date set for any meeting of the Condominium Corporation or any committee thereof;
  - (iii) seven (7) days prior to the due date of any claim or demand for payment; and
  - (iv) within twenty-four (24) hours after becoming aware of any information concerning termination of any insurance policy, insurance trust agreement or management agreement relating to the Condominium Corporation or any of its assets;
- (f) The Chargor hereby authorizes and directs the Condominium Corporation to permit the Chargee to inspect the records of the Condominium Corporation at any reasonable time;
- (g) In addition to and notwithstanding any other provisions of this Charge, the outstanding principal amount and all accrued interest and other charges secured by this Charge shall, at the Chargee's option, become immediately due and payable without notice or demand if any of the following events or circumstances shall occur and be continuing:
  - (i) the government of the Condominium Corporation or the government of the Lands by the Condominium Corporation is terminated;
  - (ii) a vote of the Condominium Corporation authorizes the sale of all or substantially all of its property or assets or all or any part of its common elements or all or any part of the Lands or any part of the same is expropriated;
  - (iii) the Condominium Corporation fails to comply with any provision of the *Condominium Act* (Ontario) or its declaration or any of its by-laws and rules;
  - (iv) the Condominium Corporation fails to insure its assets, including the Lands, in accordance with the *Condominium Act* (Ontario) and the declaration and by-laws of the Condominium Corporation, or any insurer thereof cancels or threatens cancellation of any existing obligation to insure the same.

48. COVENANTOR

IN CONSIDERATION OF the Chargee providing accommodation to the Obligor and the sum of One Dollar (\$1.00) paid by the Chargee to the Covenantor, the receipt and sufficiency of which has been acknowledged by the Covenantor, the Covenantor does hereby covenant with the Chargee as principal debtor and not as surety that he will pay and truly cause to be paid to the Chargee the principal monies and interest hereby secured as and when such monies fall due, all taxes, rates and assessments, municipal, local or parliamentary and otherwise which now or which may hereafter be imposed, charged or levied upon the Lands and the Covenantor will observe, keep and perform the conditions and covenants herein contained by and on the part of the Chargor to be kept, performed and observed;

AND the Covenantor does further covenant and agree to and with the Chargee that should default be made hereunder and so often as the same may occur, the Covenantor will forthwith pay unto the Chargee the amount or amounts that may be in default. Any notice or demand shall be sufficiently given to the Covenantor if sent to the address for service of the Chargor set out in the Charge;

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IT IS FURTHER AGREED that the Chargee may at any time or times and from time to time extend or agree to extend the time for payment or renew the term for payment of any or all the monies secured by the Charge whether on the same or different terms and conditions or may refrain from enforcing payments thereof and may alter the terms and times of payment thereof or the rate or time of payment of interest thereon and may release any part of the Lands or any other person liable on any covenant or any other security, collateral or otherwise, or otherwise deal with the Charge and with the Chargor in whatsoever manner that the Chargee shall think proper from time to time without notice to the Covenantor and without the consent of the Covenantor and notwithstanding same, the Covenantor shall remain fully liable under the foregoing covenants so long as any monies are remaining due or unpaid to the Chargee on this loan.

AND THE COVENANTOR hereby agrees to indemnify, save, hold and keep the Chargee harmless from any and all claims, losses, damages, costs and expenses resulting from the non-payment to the Chargee of all monies herein secured, and the liability of the Covenantor shall not be released, discharged, extinguished or diminished by any act whatsoever of the Chargor or any loss, avoidance, termination by operation of law or otherwise of the obligations of the Chargor or any other person, including, without limitation, any act of bankruptcy or insolvency, or any other act, matter or thing whatsoever, save only full payment in cash of all monies herein secured and full performance and observance of all covenants, terms and obligations pursuant to this Charge and all loan and security documents related thereto.

49. **ASSIGNMENT OF RENTS**

AS ADDITIONAL primary security for the monies secured by this Charge, the Chargor transfers and assigns to the Chargee all rents, income, profits, rights and other benefits and advantages now or hereafter due or arising pursuant to all present and future oral or written leases, agreements to lease, tenancies or other agreements for the use or occupancy of the whole or any part of the Lands and all extensions and renewals thereof (collectively the "Leases" and individually a "Lease") granted to any and all tenants, licensees and other occupiers thereof (collectively the "Tenants" and individually a "Tenant"); and in furtherance thereof, the Chargor covenants and agrees as follows:

- (a) the Leases and details thereof heretofore provided by the Chargor to the Chargee are in full force and effect and have not been assigned or pledged to any other party except as disclosed by registered title to the Lands;
- (b) except with the prior written consent of the Chargee, the Chargor shall not amend, terminate, release or accept a surrender of any Lease or any guarantee thereof or waive, release, reduce, discount, discharge or otherwise compromise any rents, income or profits assigned hereunder (collectively the "Rents") payable pursuant to any Lease, and any attempt to do any of the foregoing without such prior written consent shall be null and void as against the Chargee;
- (c) except for the last month's rent and any security deposit, the Chargor has not received and shall not accept payment of any Rents more than thirty (30) days in advance;
- (d) except with the prior written consent of the Chargee, the Chargor shall not further assign the Rents, the Leases or any interest therein or consent or agree to any postponement or subordination of the same in favour of any mortgage or other encumbrance now or hereafter affecting the Lands;
- (e) except with the prior written consent of the Chargee, the Chargor shall not consent to or permit any assignment or subletting of the interest of any Tenant under any Lease or exercise any right of election thereunder which would in any way lessen the liability of any Tenant or shorten the stated term of any Lease;
- (f) the Chargor shall diligently and in good faith observe and perform all of the landlord's covenants contained in the Leases and shall likewise require that the Tenants and other parties to the Leases fully observe and perform the covenants and agreements imposed upon them by the Leases, failing which, the Chargee may, at its option, require the same at the expense and in the name of the Chargor, and all such expenses incurred by the Chargee shall be a charge upon the Lands and be paid by the Chargor to the Chargee forthwith upon demand;

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- (g) the Chargor shall give prompt written notice to the Chargee of default by any Tenant and any notice of default received from any Tenant, including a copy of such notice;
- (h) all of the Leases are and shall be bona fide and at rental rates and upon terms which are reasonable and consistent with comparable space in the municipality within which the Lands are situate;
- (i) the Chargor shall, at its own expense, execute and deliver to the Chargee all such further assurance and assignments with respect to the Rents and the Leases and enforce and do all other acts with respect to the Leases as may be required from time to time by the Chargee.

UPON DEFAULT hereunder by the Chargor, the Chargee shall be entitled, as agent and attorney of the Chargor, to collect, sue for, waive or compromise the Rents and to enforce performance of the Leases or amend, terminate, release or accept a surrender of the same as the Chargee may determine in its sole discretion;

PROVIDED THAT the Chargee shall not by virtue of these premises or its receipt of any Rents become or be deemed to be a mortgagee in possession and the Chargee shall not be obligated to perform or discharge any obligation or liability under the Leases, or under or by reason of the assignment herein contained, and the Chargor agrees to save and hold harmless the Chargee of and from any and all actions, proceedings, claims, demands, liability, damages, costs or expenses which the Chargee may incur under or by reason of the Leases or the assignment herein contained, and all costs and expenses incurred by the Chargee in connection therewith shall be a charge upon the Lands and be paid by the Chargor to the Chargee forthwith upon demand.

IN THE EVENT that the Chargee collects any Rents by reason of the Chargor's default, the Chargee shall be entitled to payment from the same of an administration fee equal to 5% of the gross amount of Rents collected, and the Chargor acknowledges and agrees that such administration fee is just and equitable having regard to the circumstances.

50. **RENT MATTERS**

THE CHARGOR represents, warrants and covenants that all the rents payable or heretofore paid by the tenants of all or part of the Lands now comply and have at all times complied with the requirements of the *Rent Control Act*, S.O. 1992, any predecessor legislation and any other legislation regulating the charging of rents in residential premises, that all applicable notices for rent increases from time to time have been properly given in the manner prescribed by law, that all statutory rebates or other amounts owing to tenants of all or part of the Lands have been paid, that the Chargor has and will in the future comply with or cause its agents to comply with the *Rent Control Act*, S.O. 1992 and any other legislation applicable to the leasing of residential premises and that there are no applications or orders issued to increase rent or reduce rent under the *Rent Control Act*, S.O. 1992 or for abatement under the *Landlord and Tenant Act*, R.S.O. 1990 and there are no orders prohibiting rent increases pending or extant under the *Rent Control Act*, S.O. 1992 or any predecessor legislation.

51. **RESTRICTION ON FURTHER FINANCING**

THE CHARGOR agrees not to enter into any further financing of the Lands and not to further encumber same in any manner without the prior written approval of the Chargee.

DATED the 5th day of November, 1996.

LAURENTIAN BANK OF CANADA  
By its solicitors  
SMITH LYONS

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

Robert D. Muncaster

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