



Retail Collateral Mortgage

Form 15.1
Land Titles Act, S.N.B. 1981, c.L-1.1, s.25
Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2

Parcel Identifier: _____
PID

Mortgagor: _____
name

_____ address

AND

_____ name

_____ address

Spouse of: _____ name of _____ name

_____ address
Mortgagor

Mortgagee: **THE BANK OF NOVA SCOTIA** _____
name

_____ address

Manner of Tenure: Not applicable

Limitation of Right,
Title or Interest Mortgaged: _____

Particulars of Security: See Schedule "G" attached

Statutory Covenants and Conditions Excluded: 101, 102, 103, 104, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, 119

Optional Covenants and Conditions Included: SMC-2997

The mortgagor mortgages in fee simple to the mortgagee in the specified manner of tenure the specified parcel as collateral security, the particulars of which are specified.

The mortgagor acknowledges receipt of the text of the covenants and conditions which are contained in this mortgage by reference to a distinguishing number or by virtue of subsection 25(4) of the *Land Titles Act*, and agrees to be bound by them to the same extent as if set out at length herein.

The spouse of the mortgagor joins in this instrument and consents to this disposition for the purpose of complying with Section 19 of the *Marital Property Act*.

Date: _____, _____.

WITNESS:

MORTGAGOR:

Signature

Signature

Signature

Signature

Signature

Spouse of _____:
Name of mortgagor

Signature

SCHEDULE "G"

to a Collateral Mortgage made between

_____ and **THE BANK OF NOVA SCOTIA** and dated _____

Particulars of Security:

The mortgagor mortgages in fee simple to the mortgagee the property as collateral security, for payment to the mortgagee on demand of all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the mortgagor to the mortgagee or remaining unpaid by the mortgagor to the mortgagee, whether arising from dealings between the mortgagor and the mortgagee or from any other dealings or proceedings by which the mortgagee may be or become in any manner whatever the creditor of the mortgagor, and wherever incurred, and whether incurred by the mortgagor alone or with another or others and whether as principal or surety including the additional amounts payable as expenses under this Mortgage. The debts and liabilities secured by this Mortgage are referred to in this Mortgage as the "Obligations Secured".

You agree to pay interest on amounts due under the Mortgage but not yet paid at an interest rate equal to the prime lending rate of The Bank of Nova Scotia for commercial loans denominated in Canadian dollars announced from time to time plus 10 percent per year, calculated on a daily basis and payable monthly, both before and after demand and before and after default and/or judgement.

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SECTION 1 DEFINITIONS

- 1.01 In this set of Optional Covenants and Conditions and in any schedules attached to a Form 15.1 Collateral Mortgage, the following terms have the following meanings:
- (a) **Agreement(s)** means all of the contracts, credit agreements, companion booklets, promissory notes, bills, guarantees, notices or other documents, present or future, and all renewals, extensions, amendments, restatements, replacements and substitutions relating to any of them and in each case entered into, or otherwise approved by you and us, and which by their terms are intended to be secured by a mortgage on the Property.
 - (b) **Buildings** means all buildings and Improvements covered by the Mortgage, as set out in Section 2 , whether presently existing or built in the future, both during construction and afterwards.
 - (c) **Condominium Corporation** means any condominium corporation of which the Property is a part.
 - (d) **Costs and Servicing Fees** means all costs and servicing fees referred to in the Mortgage or the Agreements including without limitation costs and servicing fees under the headings **Costs and Servicing Fees** and **Additional Costs and Servicing Fees** covered below.
 - (e) **Improvement** means any construction, erection, remodeling, rebuilding, installation, alteration, addition, change, tear down, renovation, repair or demolition on, of or to your Property or a part of your Property.
 - (f) **Judgment** has the meaning assigned to it in Subsection 15.08.
 - (g) **Mortgage** means, for the non-electronic paper based registration system, the Form 15.1 Collateral Mortgage in which this set of Optional Covenants and Conditions is referred to by its filing number, any schedules attached to it and this set of Optional Covenants and Conditions, or, for electronic registration system, the Form 15.1 Collateral Mortgage prepared in electronic format and registered electronically pursuant to the provisions of the *Land Titles Act*, as well as any attached schedules and this set of Optional Covenants and Conditions.
 - (h) **Obligations Secured** means all debts, liabilities and other obligations present or future, absolute or contingent, matured or not, at any time owing by you to us or remaining unpaid by you to us, and wherever incurred and whether incurred by you alone or with others and whether as principal or surety, and which arise pursuant to the Agreements and/or this Mortgage.
 - (i) **Optional Covenants and Conditions** means these Optional Covenants and Conditions.
 - (j) **Person** means a natural person or any other legal entity such as a corporation.
 - (k) **Property** means the lands described under the heading Parcel Identifier in the Mortgage and everything else included under the heading **Description of Property Mortgaged** in Section 2.
 - (l) **We, our and us** means Scotiabank or The Bank of Nova Scotia, the Mortgagee including our successors and assigns, and, as appropriate, any of our subsidiaries. Scotiabank acts as an agent for Scotia Mortgage Corporation, a wholly owned subsidiary. Any of our subsidiaries such as Scotia Mortgage Corporation, may act as our agent. Dealing with them is the same as dealing with us.
 - (m) **You and your** mean each and every Person who has signed or is bound by the Mortgage as Mortgagor and anyone who has signed the Agreements.
- 1.02 The Mortgage is made pursuant to the *Land Titles Act (New Brunswick)* and *Standard Forms of Conveyances Act (New Brunswick)*. If the Mortgage is Canada Mortgage and Housing Corporation (CMHC) insured, or insured by any other third party provider of similar insurance, it is made according to the *National Housing Act (Canada)*.
- 1.03 Any reference to signing the Mortgage means signing a Form 15.1 Mortgage or a schedule to it. . References to sections refer to sections of these Optional Covenants and Conditions. Any reference to an Act in this Mortgage includes any amendment, replacement, or re-enactment of that Act.
- 1.04 For the purposes of these Optional Covenants and Conditions and subject to Subsection 13.01, each loan that is made or provided to you under an Agreement will be treated as a separate and distinct loan. If this Mortgage secures any mortgage loans(s) insured by mortgage default insurance (including without limitation any mortgage default insurance obtained by us after a mortgage loan is advanced), no further advances or re-advances on such insured mortgage loan(s) are permitted.

SECTION 2 DESCRIPTION OF PROPERTY MORTGAGED

- 2.01 The Property, including any Buildings and any other property that is at any time attached or affixed to the land or Buildings, including without limitation any fixtures or Improvements, and all other associated rights including easements and rights-of-way and all related rents and profits are mortgaged by this Mortgage .

SECTION 3 WHAT THE MORTGAGE DOES

- 3.01 By signing this Mortgage, you mortgage your entire interest in the Property to us and to anyone to whom the Mortgage is transferred in any way, as security for the performance and payment to us, on demand, of the Obligations Secured. The preceding sentence does not include the final day of any lease.
- 3.02 The Mortgage secures a current or running account. The Mortgage is not satisfied or discharged by any intermediate payment of all or part of the Obligations Secured but remains a continuing security for payment and performance of the Obligations Secured, notwithstanding any change in the amount, nature or form of the Obligations Secured or any renewal, extension, amendment, replacement, restatement or substitution of the Agreements.
- 3.03 Our mortgage upon your interest in the Property, subject to the Mortgage and Agreements, will end when:
- (a) you have repaid and performed the Obligations Secured including without limitation all amounts to which we may become entitled under the Mortgage ;
 - (b) you have done everything else you have promised to do in the Mortgage and the Agreements; and
 - (c) we have signed and delivered to you a discharge of the Mortgage .

- 3.04 You may remain in possession of the Property in accordance with the Mortgage and the Agreements. We can take any steps necessary to protect the entire interest you have charged to us and you authorize us and agree that we may, on your behalf, execute and/or register any documents necessary to give effect to your mortgaging your entire interest to us. This includes, but is not limited to, rectifying clerical errors.
- 3.05 You agree to perform all of your obligations and to pay in accordance with the Agreements and this Mortgage all amounts including without limitation all Costs and Servicing Fees and other amounts due to us under this Mortgage or under any of the Agreements, and all interest, including without limitation compound interest, accruing on the Obligations Secured from time to time. These amounts are secured by this Mortgage and form part of the Obligations Secured.
- 3.06 You agree that all payments that you make to us or that we ask you to make will be made in full without any set off, abatement, counterclaim, deduction or withholding whatsoever. You agree that you do not have a right to cancel, offset or reduce any payment or debt by any amount we owe you.

SECTION 4 NO OBLIGATION TO ADVANCE

- 4.01 If we decide, for any reason, that we do not wish to lend you any money or more money, or provide other forms of credit to you, then we do not have to do so, even though the Mortgage is prepared, signed or registered, and whether or not any amounts have already been advanced. However, by signing the Mortgage you mortgage all of your entire interest in the Property to us. You will, immediately, pay our Costs and Servicing Fees, including without limitation investigating the title to the Property and preparing and registering the Mortgage.

SECTION 5 YOUR TITLE TO THE PROPERTY

- 5.01 If you are the owner of the Property, you promise and declare that, as of the date of this Mortgage and as at each subsequent advance of the Obligations Secured:
- (a) you are the registered legal owner and beneficial owner of the Property and have good and marketable freehold title to the Property;
 - (b) you have the right to give us the Mortgage and to enter into the Agreements;
 - (c) there are no encumbrances or other claims or interests on the title to the Property other than those disclosed on the registered title to the Property; and
 - (d) there are no limitations or restrictions on your title to the Property except building by-laws, zoning regulations and registered restrictions, all of which have been and will continue to be complied with.
- 5.02 If you are a tenant of the Property, you promise and declare that, as of the date of this Mortgage and as at each subsequent advance of the Obligations Secured:
- (a) the Property is leased to you under a lease, a copy of which you have provided to us;
 - (b) the lease is a binding and existing lease and all information you have provided to us concerning it is true;
 - (c) all rents payable and other amounts due under the lease have been paid;
 - (d) you have permission or the right to assign, sublease and mortgage or charge the lease; and
 - (e) except as expressed in the lease, there are no limitations, restrictions or encumbrances on your interest under the lease other than building by-laws, zoning regulations and registered restrictions, all of which have been and will continue to be complied with.
- 5.03 You agree not to further transfer, mortgage, charge, hypothecate, lease or encumber the Property without our prior written consent.
- 5.04 You promise not to do anything that will interfere with our mortgage upon your interest in the Property and you agree to sign any documents or do anything further that we think is necessary to mortgage to us your interest in the Property.
- 5.05 If we agree in writing that the Mortgage is not a first mortgage on the Property, you agree not to increase the principal amount owing under any prior charge or to re-borrow any amount repaid under any prior charge without first obtaining our written approval, unless the prior charge is held by us. We may withhold our approval for any reason. You promise not to default under any prior charge. You consent to us giving notice to the holder of any other charge on the Property of the existence of this Mortgage and of all the terms of this Mortgage and the Agreements.

SECTION 6 YOUR RESPONSIBILITIES

6.01 Payment

- (a) You agree to pay us the Obligations Secured on demand, and to comply with all your other obligations under this Mortgage and under the Agreements.

6.02 Insurance

- (a) You will insure without delay and keep insured in our favour and until the Mortgage is discharged the Buildings against loss or damage by fire and other perils usually covered by a standard extended coverage insurance policy and against any other perils we request from time to time (including without limitation earthquake insurance).
- (b) Such insurance must be provided by a company approved by us for the full replacement cost of the Buildings (the maximum amount for which the Buildings can be insured) in Canadian dollars. Your policy must be in a form satisfactory to us and must include extended perils coverage and the Canadian standard mortgage clause satisfactory to us stating that loss under the policy is payable to us. You shall, at our request, transfer to us all insurance policies and receipts of payment you have on the Buildings and any proceeds from that insurance. Co-insurance is not permitted.
- (c) In our opinion, if you do not comply with this Subsection 6.02 before your insurance expires or is terminated, or if you do not:
 - (i) maintain insurance on the Buildings; or
 - (ii) deliver a copy of any insurance policy and/or receipt of payment to us within five (5) calendar days after we make a request; or

- (iii) provide us with evidence of any renewal or replacement of the insurance or insurance broker at least thirty (30) calendar days before your insurance expires or is terminated; or
 - (iv) provide us with a policy that contains an assurance by the insurer to notify us in writing not less than thirty (30) calendar days prior to any material change, cancellation, failure to renew or termination of any policy;
- we can, but are not obliged to, insure any of the Property or Buildings.
- (d) We may take out insurance under an individual policy or the Property may be insured under a blanket insurance policy issued to us. If we take out such insurance, we will insure the Property only for the amount owing under the Obligations Secured. You will pay our Costs and Servicing Fees as set out in Subsection 6.02(n).
 - (e) If the insurance you obtain is not acceptable to us in our reasonable estimation, we can require you to replace it with insurance which is acceptable.
 - (f) If the Property includes a condominium unit, you will ensure the full compliance by the Condominium Corporation with its duties and obligations under the *Condominium Property Act*, (New Brunswick) and the declaration and by-laws of the Condominium Corporation. You will also ensure that the Condominium Corporation will at all times comply with the terms of all insurance policies, the insurance provisions of the Condominium Corporation's declaration and any insurance trust agreement. You will also ensure that the insurance taken out by the Condominium Corporation complies with the obligations of this Subsection 6.02. Furthermore, you will ensure that the Condominium Corporation assigns and delivers to us certificates of insurance or, if required by us, certified copies of each insurance policy, as soon as possible after placing the required insurance.
 - (g) If the Property includes a condominium unit, in addition to the insurance which the Condominium Corporation must obtain, you must:
 - (i) insure your condominium unit;
 - (ii) insure all improvements which you or previous owners have made to your condominium unit;
 - (iii) insure your common or other interest in the Buildings (whether presently existing or built in the future, both during construction and afterwards) which are part of the condominium property or assets of the Condominium Corporation, if the Condominium Corporation fails to insure the Buildings or assets as required or if we require you to do so; and
 - (iv) assign your insurance policies to us and (as far as permitted by law) your interest in the policies held by the Condominium Corporation.
 - (h) Insurance proceeds may, to the extent permitted by law, in whole or in part and at our sole discretion, be:
 - (i) applied to rebuild or repair the Property;
 - (ii) paid to you or paid to any other Person who owns or did own the Property, as established by the registered title to the Property; or
 - (iii) applied to reduce any part of the Obligations Secured, whether due or not yet due.
 - (i) You will not take or fail to take any action that may jeopardize insurance coverage for the Property without our prior written consent, including without limitation leaving the Property unoccupied in contravention of any insurance policy(ies) applicable to the Property. If you are in default under the Mortgage, the Agreements or the Obligations Secured and if we post a notice on the Property requesting that you contact us and you fail to do so within five (5) calendar days following posting of the notice, you agree that you will be deemed to have left the Property unoccupied for the applicable period and we shall be at liberty to enter or take possession of the Property, at our option, and if we do enter or take possession, that we are not and shall not be deemed to be a mortgagee in possession.
 - (j) All policies of insurance must show any loss payable:
 - (i) to us;
 - (ii) to a trustee approved in writing by us pursuant to an insurance trust agreement approved by us; or
 - (iii) to both (if the Property includes a condominium unit).
 - (k) The terms of any insurance trust agreements, once approved in writing by us, may not be altered without our further written approval.
 - (l) The Mortgage also charges all insurance proceeds as security for the Obligations Secured. If the Property includes a condominium unit, the Mortgage also mortgages your interest in any insurance trust and any insurance proceeds relating to the Property held by the trustee.
 - (m) If there is any loss or damage to the Property, you must furnish at your own expense all necessary proofs of claims and do all necessary acts to enable us to obtain payment of the insurance proceeds. You also empower us to complete and file any necessary proofs of claims or loss on your behalf. Production of the Mortgage will be sufficient authority for the insurer to pay any loss to us.
 - (n) You will immediately pay our Costs and Servicing Fees related to and with respect to insurance, including without limitation investigating any insurance matters, administering insurance cancellations, paying insurance premiums, dealing with insurance claims or taking out any insurance under an individual or blanket insurance policy issued to us. You will pay our Costs and Servicing Fees immediately. If you do not, we may declare that you are in default of this Mortgage or add these amounts to your Obligations Secured, or do both. If we add these amounts to your Obligations Secured, interest will be charged at the interest rate provided for in the applicable Agreement until they are repaid.

6.03 Taxes

- (a) You will make tax payments to us in accordance with this Subsection 6.03 on account of the property taxes payable on your Property so that we may pay the taxes when they become due.
- (b) We can deduct from any advance of the Obligations Secured enough money to pay all taxes due which have not been paid.
- (c) The tax payments will be made on the same dates that your regular mortgage loan payments are to be paid to us. Your tax installments will consist of the estimated annual taxes divided by the number of regular mortgage loan

payments you are required to make annually. We may change the amount of the tax payments you make and the frequency of the tax installments from time to time to reflect changes in the annual taxes on your Property or to reflect an amount that exceeds our estimate of your taxes.

- (d) The tax payments should enable us to pay all taxes on or before the annual due date for the taxes. If your taxes are payable in installments, the tax payments should enable us to pay each and every installment of taxes on your Property on or before the date on which the final installment is due.
- (e) If, however, the annual due date or the final installment date for the payment of your taxes is less than one year from the interest adjustment date indicated in the applicable Agreement, you will pay us equal tax payments during that period and during the next 12 months. These equal tax payments will be based on our estimate of the total taxes payable for both periods so that we will receive enough money from you to pay all taxes for both of those periods.
- (f) You will send us immediately upon their receipt, all assessment notices, tax bills or tax notices which you receive. Failure to do so may result in additional charges or fees from the taxing authority.
- (g) We may estimate your Property taxes for the year based on information received from you. We may revise the estimate from time to time. You will pay to us on demand any amount by which the actual taxes on your Property exceed our estimate of your taxes or exceed the amount we have accumulated to pay your taxes and failure to do so may result in additional charges, fees or penalties from the taxing authority. Or, at our option, we may increase the tax payment to cover this amount. You will be responsible for any additional charges, fees or penalties from the taxing authority.
- (h) We will pay your taxes from the tax payments we receive from you as long as you are not in default under this Mortgage . We are not obliged to make tax payments on the due dates or more often than once a year. If you have not paid us enough for taxes, we may still pay the taxes. This will create a debit balance in your tax account. Any debit balance is immediately payable by you. Until paid, any debit balance will be added to the Obligations Secured and will be a charge against your Property. We are under no obligation to advise you that a debit balance has been created. We will charge you interest on the debit balance in your tax account at the interest rate provided for in the applicable Agreement until the debit balance is paid to us in full.
- (i) We will pay you interest on any credit balance in your tax account. The interest we pay will not be less than that paid by The Bank of Nova Scotia on their savings-chequing accounts with the same credit balance.
- (j) We may apply the money in your tax account towards payment of any amount you owe in connection with the Obligations Secured that you fail to pay us when it is due.
- (k) We may agree not to require you to make property tax payments through us. If this is the case, you agree to pay all taxes directly to the taxing authority when due and to provide us with a copy of a receipt or other acceptable evidence of payment within thirty (30) days after the due date. We may also verify payment of property taxes directly with the taxing authority. Despite our agreeing not to require you to make property tax payments through us, we can, on notice, at any time, require you to make tax payments to us in accordance with this Subsection 6.03 on account of the property taxes payable on your Property so that we may pay the taxes when they become due. You agree to execute all necessary documents required by us.
- (l) Whether the taxes are paid through us or by you, you will immediately pay our Costs and Servicing Fees related to and with respect to taxes, including without limitation collecting money for and paying your property taxes, amounts charged by the taxing authority for providing information about your property taxes, for sending us your property tax invoices or for accepting property tax payments from us on your behalf. You will pay our Costs and Servicing Fees immediately. If you do not, we may declare that you are in default of this Mortgage or add these amounts to your tax account, or do both. If we add these amounts to your tax account, interest will be charged at the interest rate provided for in the applicable Agreement until they are repaid. If you do not have a tax account, we may add these amounts to your Obligations Secured and interest will be charged at the interest rate provided for in the applicable Agreement until they are repaid.

6.04 **Other Charges**

- (a) You agree to pay all taxes, charges, mortgages, liens, common expenses, contributions, levies, assessments, claims and other encumbrances on the Property when they are due. If you do not pay any of these amounts when they are due, we can pay them. We can also, without prior notice to you, pay off any liens, common expenses contributions, levies, assessments, claims or encumbrances against your Property which we consider to have priority over the Mortgage. If your obligation under the Mortgage is to comply with an obligation to another Person, and the other Person claims that you have not complied, we can do what we choose to cause compliance as if such claim is valid and even if you dispute it. We are entitled to rely on any statement we receive for the purpose of making any payment required to protect our interest in your Property and will not be required to undertake any further investigation. These statements will be considered conclusive evidence of the amount owing.
- (b) If we pay on your behalf any taxes, charges, mortgages, liens, contributions, levies, assessments, claims or other encumbrances or any common expenses, you will pay our Costs and Servicing Fees immediately.
- (c) You will also pay immediately all our Costs and Servicing Fees related to collecting any payments not received from you when due.

6.05 **Keeping the Property in Good Condition**

- (a) You agree to keep the Property in good condition and to make any repairs that are needed. You also agree not to do or fail to do anything, or let anyone else do or fail to do anything, that lowers the value of the Property or negatively affects the marketability of your Property. We can inspect the Property at any reasonable time, and charge the Costs and Servicing Fees of any inspections to you.
- (b) If you do not keep the Property in good condition, or if you or anyone else does or fails to do anything that lowers the value of the Property or negatively affects the marketability of your Property, or fail to comply with this Subsection 6.05, we can make any repairs which we consider necessary and charge our Costs and Servicing Fees of any such repairs to you. You will pay our Costs and Servicing Fees immediately.
- (c) Despite whether you did or did not obtain the governmental approvals that apply to your Property, you will not make any Improvements to the Property without our prior written consent. In either case, we may withhold our approval in our sole discretion.

- (d) You or any party using your Property with your permission will not use the Property for any business purposes without our prior written consent.
- (e) You or any party using your Property with your permission may not use the Property for illegal purposes or illegal substances.
- (f) You or any party using your Property with your permission will not use the Property to cultivate or store marijuana.

6.06 Leasehold Interests

- (a) If you are a tenant of the Property, you promise to:
 - (i) pay the rents and other amounts due under the lease as they fall due;
 - (ii) comply with all of the other terms of the lease and not to do or fail to do anything that would cause the lease to be terminated or fall into default;
 - (iii) not surrender the lease;
 - (iv) not make any change in the lease without first obtaining our written consent;
 - (v) give us a true copy of any notice or request you receive concerning the lease; and
 - (vi) notify us immediately if your landlord advises you of early termination or takes any steps to effect early termination of the lease.
- (b) We can but are not obliged to appoint an agent to assign your lease and the last day of the term of your lease and the last day of any renewal term of your lease on your behalf and in your name. We may appoint an agent to transfer your interest in your Property as required to enforce any of our rights under this Mortgage, including without limitation our right to sell your Property under power of sale. The agent is to be your agent and not ours and the agent's default is considered to be solely your default.
- (c) We are not obliged to collect any rent or other income from the Property nor to comply with any term of any lease or agreement. If we choose to exercise any of our rights with respect to the rents, then our rights in the rents will take priority over all other parties claiming an interest in the rents.
- (d) We shall have the right to cure any default by you under the lease but are not required to do so. You will pay our Costs and Servicing Fees immediately.

SECTION 7 APPLYING YOUR PAYMENT

- 7.01 We may allocate your payments to any Obligations Secured both before and after default.
- 7.02 Subject to the rights of any third party, any money we obtain by enforcing our rights, after paying our Costs and Servicing Fees, will be applied as follows:
 - (a) first, to any mortgage loan(s) insured by mortgage default insurance (including without limitation any mortgage default insurance obtained by us after a mortgage loan is advanced);
 - (b) second, to any uninsured mortgage loan(s);
 - (c) third, to any line(s) of credit;
 - (d) fourth, to any term loan(s) other than mortgage loans;
 - (e) fifth, to any credit card(s);
 - (f) sixth, to any overdraft(s); and
 - (g) seventh, to any other loans and credit accounts not listed in items (a) through (f).
- 7.03 If there is more than one loan in any category listed in Subsection 7.02, the money we obtain will be applied among such loans at our sole discretion.

SECTION 8 PREPAYMENT

- 8.01 Your right to prepay, if any, the Obligations Secured is set out in the Agreements.
- 8.02 If there is a default under the Mortgage or the Agreements and the entire balance of the Obligations Secured is accelerated and becomes immediately due and payable prior to the maturity date in the applicable Agreement, you shall pay us, in addition to the full balance of the Obligations Secured, a bonus equal to three (3) months of interest on the mortgage loan amounts, at the interest rate provided for in the applicable Agreement. The said bonus shall be payable notwithstanding any enforcement action already taken by us and we shall have no obligation to discharge the Mortgage until such payment is made.
- 8.03 Where a default under the Mortgage or the Agreements continues to or is made after the maturity date in the applicable Agreement, you shall still pay us, in addition to the full balance of the amount owing on the Obligations Secured, a bonus equal to three (3) months of interest on the mortgage loan amounts, at the interest rate provided for in the applicable Agreement, and we shall have no obligation to discharge the Mortgage until such payment is made, notwithstanding any enforcement action already taken by us. In the event your Property is sold by us, we shall be entitled to recover the bonus of three (3) months of interest on the mortgage loan amounts, at the interest rate provided for in the applicable Agreement, from the proceeds of any sale of your Property or other proceedings for enforcement of the Mortgage or the Agreements, even if the sale of your Property occurs after the maturity date in the applicable Agreement. Nothing herein shall be deemed to affect or in any way limit our rights to recover by action or otherwise the Obligations Secured upon default or maturity of the Obligations Secured.

SECTION 9 BUILDING MORTGAGES

- 9.01 If any portion of the Obligations Secured is to finance an Improvement, you must so inform us in writing immediately and before any advances of such portion of the Obligations Secured. You must comply with all of your obligations under the **Mechanics' Lien Act** (New Brunswick) including without limitation the obligation to maintain holdbacks. You must also provide us immediately with copies of all contracts and subcontracts relating to the Improvement and any amendments to them. You agree that any Improvement shall be made only with our prior written consent and according to contracts, plans and specifications first approved in writing by us in advance. If we consent, you must complete all such Buildings and/or Improvements as quickly as possible and provide us with proof of payment of all

contracts from time to time as we require. If you do not complete the Improvement, we may do so and our Costs and Servicing Fees will form a part of the Obligations Secured and will bear interest at the interest rate provided for in the applicable Agreement. You will pay our Costs and Servicing Fees immediately. We will make advances pursuant to the applicable Agreement to you based on the progress of the Improvement, until either completion and occupation or sale of the Property. We will determine, in our sole and absolute discretion, whether or not any advances will be made, when they will be made and in what amount. You authorize us to provide information about the Mortgage to any Person claiming a construction lien on the Property.

- 9.02 We do not assume any responsibility for the construction of any Buildings on your Property or the completion of any Improvements to your Property or for any contractual terms or arrangements made between you and the builder or any contractors/subcontractors. The fact that we have made an advance does not constitute any representation or warranty by us with respect to the condition of the Buildings on your Property or the completion of any Improvements to your Property or any compliance with any contractual terms or arrangements made between you and the builder or any contractor/subcontractor.
- 9.03 Costs and Servicing Fees relating to inspections, appraisals and other external experts which we require are your responsibility and may be deducted from advances.

SECTION 10 TRANSFER OF LEASES AND RENTS

10.01 As additional and separate security for the Obligations Secured, you assign to us all existing and future rents and leases relating to the Property. In particular, you transfer and assign to us as security:

- (a) all leases, lease agreements and their renewals;
- (b) all rents and other money payable under the terms of all such leases and agreements, however, we may allow you to receive such rents so long as there is no default by you in making your payments to us or in complying with your other obligations to us under the Mortgage or any of the Agreements; and
- (c) all of your rights under such leases and agreements.

10.02 In addition, you confirm and agree that:

- (a) you must obtain our prior written consent for any future leases of the Property or for the renewal of any lease (other than a renewal provided for in any lease already approved by us);
- (b) nothing we do under this Section 10 shall put us in possession of the Property;
- (c) however, if you default under the Mortgage or any of the Agreements we have the right to take possession of, inspect, collect rents or manage the Property;
- (d) we are not obliged to collect any rent or other income from the Property nor to comply with any term of any lease or agreement; and
- (e) if we choose to exercise any of our rights with respect to the rents, then our rights in the rents will take priority over all other parties claiming an interest in the rents.

SECTION 11 APPOINTING A RECEIVER

11.01 If you do not repay all of the Obligations Secured when they become due and payable in accordance with Section 13 of this Mortgage or if any one or more of the events listed in Subsection 13.01(a) through (g) occurs, we can, in writing, appoint a receiver (which includes a receiver and manager) to collect any income from the Property and to otherwise exercise its or our rights as set out in this Mortgage. We can also, in writing, appoint a new receiver in place of any receiver appointed by us. The receiver is considered to be your agent and not ours and his defaults are considered to be solely your defaults.

11.02 The receiver has the right but not the obligation to:

- (a) use any available remedy (taken in your name or our name) to collect the income from the Property;
- (b) take possession of the Property or part of it;
- (c) manage the Property, maintain it in good condition and complete any Improvements if applicable; and
- (d) lease the Property on whatever terms considered appropriate.

11.03 From the income collected from your Property, or the proceeds of sale of your Property, the receiver may:

- (a) retain a commission of 5% of the total money received or any higher rate permitted by a judge or other authorized officer;
- (b) retain enough money to pay disbursements spent on collecting the income;
- (c) pay all taxes, insurance premiums, expenses of keeping the Property in good condition or completing any Improvements, interest on those payments, and all charges that have priority over the Mortgage and interest on those charges at the interest rate provided for in the applicable Agreement; and
- (d) pay us all interest that is due and payable under the Obligations Secured and then, at our option, pay us all or part of the Obligations Secured, whether due or not yet due.

11.04 Nothing done by the receiver puts us in possession of the Property or makes us accountable for any money except for money actually received by us.

SECTION 12 PROTECTING OUR SECURITY AND INSPECTIONS

12.01 We (including, in this Section 12, the mortgage default insurer, if the Mortgage is insured) may inspect the Property and any Buildings on it when we consider it appropriate. We may do this for any purpose but particularly to conduct environmental testing, site assessments, appraisals, occupancy checks, investigations or studies which we consider appropriate. You will pay our Costs and Servicing Fees immediately. If we do the things permitted under this Section 12 or any other provision in these Optional Covenants and Conditions, we will not be considered to be in possession, management or control of the Property. This also applies to our agents.

12.02 In all cases, you will protect and indemnify us against all actions, claims, lawsuits, expenses, costs, or other demands relating to marijuana, hazardous or illegal substances on your Property, and any breach of your obligations under this Section 12.

- 12.03 You agree that you have made reasonable investigations and enquiries and that no part of your Property now contains, nor has it ever contained, and agree that it will never contain in the future, marijuana, hazardous or illegal substances, or be used for an illegal purpose.
- 12.04 If marijuana, hazardous or illegal substances are found on your Property, regardless of the source or cause, you must, with our prior written consent, immediately carry out all work required to remove the marijuana, hazardous or illegal substances from your Property and repair the damage to your Property. The plans and proposals for doing the work and repairs must have been prepared in consultation with us and have been approved, in writing, by us in advance. When the work is completed, you must provide us with confirmation in writing that the work is completed. This confirmation must be in a form acceptable to us. You are responsible for all of the Costs and Servicing Fees associated with this work, including without limitation providing evidence that the work has been completed. You will pay our Costs and Servicing Fees immediately.
- 12.05 If we do not consent to your repairing the damage, completing the work or if you fail to meet one or more of your obligations under this Section 12, you agree that we may do all or any part of the work we feel is appropriate. However, we are not obliged to do so. If we do, you will be responsible for all of the Costs and Servicing Fees associated with this work. You will pay our Costs and Servicing Fees immediately.

SECTION 13 IMMEDIATE PAYMENT

- 13.01 You will immediately, at our option, pay to us all of the Obligations Secured if:
- (a) any part of the Obligations Secured is not paid when it is due;
 - (b) you fail to comply with any of your obligations under the Mortgage or under any Agreement;
 - (c) you become insolvent or bankrupt;
 - (d) any lien is registered against the Property or we receive written notice of any lien that is created as a result of unpaid property taxes, unpaid condominium maintenance fees, Judgments or construction liens or other similar encumbrances;
 - (e) your Property is abandoned;
 - (f) any buildings being erected or Improvements done on your Property remain unfinished without work being done on them for thirty (30) consecutive calendar days; or
 - (g) you, or any party using your Property with your permission, uses your Property for illegal purposes.

SECTION 14 DELAY IN ENFORCEMENT

- 14.01 We can delay enforcing any of our rights under the Mortgage or the Agreements without losing any of those rights, and we can release others from their obligations under the Mortgage or any of the Agreements without releasing any one of you.
- 14.02 No delay or extension of time granted by us to you or any other Person in exercising the enforcement of any of our rights under the Mortgage and Agreements, nor any Agreement referred to in Section 17 shall affect our rights to:
- (a) receive all payments you are obliged to make to us, when they are due and payable;
 - (b) demand that you repay the Obligations Secured and all interest which is due and payable, on any default by you;
 - (c) have you comply with all of your obligations to us under the Mortgage and the Agreements; or
 - (d) have any other Person comply with the obligations that Person has to us under the Mortgage and the Agreements.
- 14.03 In some cases, we may not enforce our rights on a particular default. However, by doing so, we are not forgiving any existing default or any other defaults in the future.
- 14.04 In addition, if in these Optional Covenants and Conditions we reserve the right to make a payment or do something on your behalf, we may do so but are not obliged to do so.

SECTION 15 ENFORCING OUR RIGHTS

- 15.01 We can take immediate possession of your Property if you do not repay all of the Obligations Secured after they become due and payable in accordance with Section 13 of this Mortgage or if any one or more of the events listed in Subsections 13.01(a) through (g) occurs. In addition to the foregoing and to our rights set out in Section 11, we may enforce, at our option, any one or more of the following remedies in any order:
- (a) Sue you - We may take such action as is necessary to obtain payment of the Obligations Secured.
 - (b) Foreclose - We may commence court proceedings to foreclose your right, title and equity of redemption to all or part of the Property. If we obtain a final order of foreclosure, your Property will by law become our Property. We may also ask the court to order the sale of the Property. If the court makes such an order, it will supervise the sale proceedings. The net proceeds of the sale will be applied to reduce the Obligations Secured. Any balance remaining after all claims have been satisfied will be paid to you in accordance with applicable law. If the amount we receive from the sale of the Property is less than the Obligations Secured, you must pay us the difference.
 - (c) Power of Sale - Upon giving you notice as required by law, we may sell the Property or lease it or pursue any other remedy available to us under New Brunswick law.
- 15.02 If you default in any obligation under the Mortgage or the Agreements (including without limitation any default referred to in this Section 15), we can enforce our rights and we can enter on the Property at any time, without the permission of any Person, and make all arrangements that we consider advisable to:
- (a) inspect, lease, collect rents or manage the Property;
 - (b) repair or put in order any Buildings on the Property; or
 - (c) complete the construction of any Buildings on the Property.
- 15.03 We can also take whatever action is necessary to take possession, recover and keep possession of the Property.
- 15.04 After we are in a position to sell or lease the Property, we can sell it, by public auction or private sale, or lease it at any time, in any way, and on any terms which we think are reasonable whether in cash or part cash and credit. We may, with or without entering on the Property, lease the Property without notice to you. If we think it is reasonable, we may cancel, terminate, amend or dispute any lease or enter into new leases without being responsible for any resulting loss.

- 15.05 We may apply the net proceeds of the sale or lease to reduce any part of the Obligations Secured, after paying all expenses and Costs and Servicing Fees. We will only be accountable for the money remaining after payment of all our expenses and Costs and Servicing Fees when we actually receive it. If the money remaining, after paying all expenses and Costs and Servicing Fees, does not satisfy the Obligations Secured in full, you must pay us the difference.
- 15.06 You will not interfere with our possession of your Property, if we enter into possession of your Property while enforcing our rights, nor with the possession of anyone to whom your Property is sold or leased.
- 15.07 You agree not to make any claims concerning the Property against anyone who buys it or leases it from us, or anyone who buys or leases the Property after that time. If you do have any claims concerning the Property, you agree to make them only against us and only for money damages.
- 15.08 If we obtain a court order or judgment (a "Judgment") against you for your failure to comply with any of your obligations to us under any of the Agreements or the Mortgage, the Judgment will not result in a merger of the terms of the Judgment with our other remedies or rights to enforce your other obligations under the Mortgage or the Agreements. We will continue to be entitled to receive interest on the Obligations Secured in the manner established and at the interest rate provided for in the applicable Agreement. The rate of interest payable on any Judgment shall be calculated and payable in the same way as interest is calculated in the applicable Agreement and at the same rate that interest is payable in the applicable Agreement until the Judgment has been paid in full.
- 15.09 If you have not removed your personal belongings from the Property before we take possession, you authorize us to remove and dispose of your belongings in any manner that we, in our absolute discretion, deem appropriate, without notice to you. We have no obligation to move, dispose or store your personal belongings and we shall have no liability for, and you hereby release us from such liability, for any damages, losses, claims or expenses whatsoever arising out of our handling of your personal property, whether negligent or otherwise, including but not limited to moving or not moving, disposing or storing those belongings. You will be responsible for all Costs and Servicing Fees incurred by us in dealing with those belongings. You will pay our Costs and Servicing Fees immediately.
- 15.10 If we enforce our rights under the Mortgage or the Agreements, we will not be considered to have taken possession, management or control of the Property.
- 15.11 When the Mortgage or Agreements go into default as a result of an event that is outside your control, you are in default of the Mortgage and the Agreements.
- 15.12 If there is more than one of you, a default is yours even if the default applies only to one of you or was caused by only one of you.
- 15.13 You will immediately pay all our Costs and Servicing Fees of enforcing or protecting our security or any of our rights under the Mortgage or the Agreements. Our Costs and Servicing Fees include, without limitation, our Costs and Servicing Fees, the cost of taking or keeping possession of the Property, an allowance for our time and services utilized in so doing, our legal fees in an amount that represents full indemnity and all other Costs and Servicing Fees related to enforcing or protecting our security or any of our rights under the Mortgage or the Agreements. These Costs and Servicing Fees will form part of the Obligations Secured and will bear interest at the interest rate provided for in the applicable Agreement. You will pay our Costs and Servicing Fees immediately.
- 15.14 For the purpose of this Section 15, we, our, and us, includes the mortgage default insurer if the Mortgage is insured.

SECTION 16 DEALING WITH THE PROPERTY

- 16.01 In the event of:
- (a) a sale, conveyance, mortgage, hypothec, charge or other encumbrance, lease or transfer of the Property; and/or
- (b) a claim, a lien, execution, court order, restraint order, injunction, or certificate of pending litigation, whether we are or are not a party, is registered, filed or obtained against the Property,
- then, at our option, we may declare that you are in default and all of the Obligations Secured shall forthwith become due and payable. We can do this even if one or more of the Agreements do not contemplate immediate payment. If we do not require you to repay the Obligations Secured, our rights under this Mortgage or against anyone who has guaranteed the Obligations Secured are not affected.

SECTION 17 AMENDMENTS

- 17.01 We may, from time to time, enter into one or more written agreements with you to amend the Agreements or the Mortgage by extending the time for payment, renewing for further periods of time, changing the interest rate, increasing the balance or otherwise altering the provisions of the Agreements or the Mortgage. You will be required to meet all of our credit and other requirements at that time. You may also be required to pay additional fees and premiums related to mortgage default insurance. You will immediately pay our Costs and Servicing Fees for a search of the title records at the appropriate Land Titles or Registry Office, where applicable. It will not be necessary to register any Agreements on title in order to retain priority of the Mortgage for the full amount of the Obligations Secured. Any reference in these Optional Covenants and Conditions to the Mortgage will mean this Mortgage, as amended by any such Agreements. Any renewals and/or amendments are at our sole discretion.
- 17.02 You agree to pay all money owing under any mortgage loan or other term loan forming part of the Obligations Secured on the maturity date(s) set out in the applicable Agreement(s) or, if we have offered to renew such mortgage loan or other term loan, to enter into a renewal agreement with us on or before the maturity date(s) set out in the applicable Agreement(s). If you do not, provided that we have not advised you that we will not renew such mortgage loan or other term loan, you agree that: (i) any mortgage loan will be automatically renewed into a fixed rate six month closed term at our posted rate with a Scotiabank Flexible Package and Flexible Prepayment type (as described in the applicable renewal agreement) unless we otherwise indicate in the renewal agreement; and (ii) any term loan will be automatically renewed on the terms we indicate in the applicable renewal agreement, in each case including, without limitation, all the other terms and conditions stated in the applicable renewal agreement. For purposes of Section 10 of the Interest Act (Canada), the date of your mortgage loan or term loan will be the date the applicable renewal takes effect.

17.03 If there are any executions, encumbrances or other claims or interests registered, filed or obtained against your Property in addition to this Mortgage, we may require them to be discharged, withdrawn or formally postponed. You will be required to pay all Costs and Servicing Fees to prepare, execute and register such discharges, withdrawals or postponements before we offer to renew or amend the Mortgage or the Agreements. This is required in order to preserve the priority of this Mortgage.

SECTION 18 GIVING NOTICE

18.01 Any written notice under this Mortgage or the Agreements may be given to you and is considered to have been received where notice has been given to you by one or more of the following means:

- (a) personal service at your last known address;
- (b) regular mail at your last known address;
- (c) electronic communication including, without limitation, by electronic mail, text message or message sent via our online banking platform;
- (d) publication in a newspaper published in the county, town, city or district where your Property is located;
- (e) leaving it with an adult on your Property; or
- (f) posting it on your Property.

18.02 Where notice is given by any of the above methods we consider you to have received the notice on the same date it is given or published or, if we send it by mail, we consider you to have received the notice within five (5) calendar days of the date of mailing. We are not required to provide notice to you at an alternate address unless you have, in writing, designated the alternate address to receive the notice.

18.03 Written notice shall be considered to have been received by us when it is received at our address indicated on the Mortgage and any other address as we may notify you in writing.

18.04 If there is more than one of you:

- (a) written notice to any one of you shall be considered to be notice to all of you; and
- (b) any one of you can provide instructions to us (including without limitation in connection with any renewal of a mortgage loan or term loan) or designate an alternate address for service that will be binding on all of you.

SECTION 19 EFFECT ON OTHER AGREEMENTS, OBLIGATIONS AND SECURITY

19.01 The Mortgage does not change or release you from any of your obligations under the Agreements with us. Also, the Mortgage does not affect any other security we hold for the repayment of the Obligations Secured or any other rights we may have to enforce repayment of the Obligations Secured.

SECTION 20 CONDOMINIUM PROVISIONS

20.01 In this Section, the *Condominium Property Act*, (New Brunswick) is called the "Act". Expressions used below which are the same as those in the Act have the same meaning as those in the Act.

20.02 You will comply with the Act and with the declaration, by-laws and rules of the Condominium Corporation relating to the Property and provide us with proof of your compliance from time to time as we may request.

20.03 You will pay the common expenses for your Property to the Condominium Corporation on the due date. In addition to our other rights and remedies contained in the Mortgage, you will pay us immediately all our Costs and Servicing Fees in relation to any by-law, resolution, rule or other matter (other than one for which only a vote of the majority present at the meeting is required) or the enforcement of our right to have the Condominium Corporation or any owner comply with the Act, declaration, by-laws and rules and our exercising any voting rights we may have. These costs will bear interest at the interest rate provided for in the applicable Agreement and will form a part of the Obligations Secured.

20.04 You irrevocably authorize us to exercise your rights in all matters concerning the Act and the condominium property, including without limitation all voting and rights of consent which you may have as owner of the condominium property. You also authorize us to exercise your rights to demand the Condominium Corporation to purchase the unit and common interest, where provided under the Act, elect to have the value of the unit and common interest or that of the condominium property determined by arbitration and receive your share of the Condominium Corporation's assets and the proceeds from the sale of the unit and common interest or of the condominium property or any part of the common elements.

20.05 If we do not exercise your rights, you may do so according to any instructions we may give you. Before making such a demand or election you must obtain our prior written approval. You must do this even if we do not have the right to make the demand or election as between ourselves and the Condominium Corporation and even if we had previously arranged for you to exercise that right.

20.06 We are not liable for any action we may take in doing what you have authorized us to do or for any failure to act and any action we may take will not put us in possession of the Property.

20.07 You authorize us to inspect the Condominium Corporation's records and remedy any failure of yours to comply with the Act or the declaration, by-laws and rules of the Condominium Corporation. You will forward to us, if we require, any notices, assessments, by-laws, rules and financial statements of the Condominium Corporation you receive (or are entitled to receive) from the Condominium Corporation.

20.08 The Obligations Secured will become payable immediately, at our option, if:

- (a) the Condominium Corporation fails to comply with the Act or the declaration, by-laws or rules of the Condominium Corporation;
- (b) the Condominium Corporation fails to insure all the condominium units and common elements according to law and according to any additional requirements of ours or do all that is necessary to collect insurance proceeds;
- (c) the Condominium Corporation makes any substantial modification to the common elements or the Condominium Corporation's assets without our prior written approval;
- (d) there has been substantial damage and the owners have voted for termination of the Condominium Corporation;

- (e) a sale of the condominium property or any part of the common elements is authorized; or
- (f) the Property ceases to be governed by the Act.

- 20.09 If the Property ceases to be governed by the Act, all the terms of the Mortgage continue to apply to the Property. You authorize us to agree with anyone to a partition of the condominium property. We can pay or receive money to ensure that the partition is appropriate and you will reimburse us, immediately, for any money we have paid. We can also execute all documents and do all acts needed to carry out the partition. Your share of the Condominium Corporation's assets and the proceeds from the sale of the unit and common interest or of the condominium property or any part of the common elements shall be paid to us, unless we notify you to the contrary in writing, and you will do all things necessary to accomplish this. Any money received by us, after payment of all our expenses, may be applied to reduce any part of the Obligations Secured. Any balance remaining after all claims have been satisfied will be paid by you.
- 20.10 You will not sell or transfer any parking, storage or bicycle unit that forms part of your Property while still retaining ownership of the living accommodation. If you sell or transfer the living accommodation to someone, you will also sell or transfer the parking, storage or bicycle unit to them.
- 20.11 In addition to any other rights under the Mortgage and the Agreements, you authorize us at any time to be able to enter upon the condominium complex and, if the Mortgage is in default, enter into the condominium unit. You will pay our Costs and Servicing Fees for so doing immediately.

SECTION 21 RELEASING THE PROPERTY FROM THE MORTGAGE

- 21.01 We may establish, at our sole discretion, the terms for releasing our interest in all or part of the Property; that is, we may discharge or partially discharge the Mortgage from the Property, whether we receive value for our release or not. If we partially discharge the Mortgage from the Property at any time, the rest of the Property will continue to secure the Obligations Secured. We are only accountable for money actually received by us. If we release part of the Property at any time from the Mortgage, we will either prepare, execute and register a partial discharge of our Mortgage and you or your representative will be provided with confirmation of partial discharge, or, at our sole option, we will prepare and provide you with an executed but unregistered official partial discharge document. You will give us a reasonable time in which to prepare, review, execute and register the partial discharge document and you will pay our usual Costs and Servicing Fees for preparing, reviewing and executing the partial discharge document and, where we elect to register the partial discharge of our Mortgage, our usual Costs and Servicing Fees for registering the partial discharge document. You will also pay all our legal fees in an amount that represents full indemnity and other Costs and Servicing Fees that we incur in connection with the partial discharge of our Mortgage. You will pay our Costs and Servicing Fees immediately. In the event that we provide you with an executed but unregistered partial discharge document, you will be responsible for registering the document and for all costs relating to such registration.
- 21.02 If the Property is subdivided before our interest in the Property comes to an end, the Mortgage will apply to each part into which the Property is subdivided. This means that each part will secure repayment of the total amount of the Obligations Secured you owe us, even if we release another part of the Property from the Mortgage.
- 21.03 If any part of the Property or any land adjoining the Property is taken by the exercise of any power of expropriation or similar power, the entire compensation which you may be entitled to receive shall, at our option, be applied to reduce the Obligations Secured, including without limitation any penalty, fee or interest to which we have a right under this Mortgage or in the relevant legislation.
- 21.04 We can release you, any guarantor or any other Person from performing any obligation contained in the Mortgage or any other security document without releasing any part of the Property secured by the Mortgage or any other security document. Any such release shall not release any other party from their obligations under the Mortgage or the Agreements.

SECTION 22 DISCHARGE OR ASSIGNMENT OF MORTGAGE

- 22.01 When our interest in your Property comes to an end and you request that we discharge our Mortgage, we will either prepare, execute and register a full discharge of our Mortgage and provide you with confirmation of discharge, or, at our sole option, we will prepare and provide you with an executed but unregistered discharge document. You will give us a reasonable time in which to prepare, review, execute and register the discharge document and you will pay our usual Costs and Servicing Fees for preparing, reviewing and executing the discharge document and, where we elect to register the discharge of our Mortgage, our usual Costs and Servicing Fees for registering the discharge document. You will also pay all legal fees in an amount that represents full indemnity and other Costs and Servicing Fees that we incur in connection with the discharge of our Mortgage. You will pay our Costs and Servicing Fees immediately. In the event that we provide you with an executed but unregistered discharge document, you will be responsible for registering the document and for all costs and fees relating to such registration.
- 22.02 When our interest in your Property comes to an end and you request that we assign your registered Mortgage, and we are required by law to assign your registered Mortgage, we will prepare and execute an assignment of the registered Mortgage. You will give us a reasonable time in which to prepare, review and execute the assignment of the registered Mortgage and you will pay our usual Costs and Servicing Fees for preparing, reviewing, and executing the assignment of the registered Mortgage. You will also pay all legal fees in an amount that represents full indemnity and other Costs and Servicing Fees that we incur in connection with the assignment of the registered Mortgage. You will pay our Costs and Servicing Fees immediately. You will be responsible for registering the assignment of the registered Mortgage and for all costs and fees relating to such registration. We may, but are not required to, provide you or any other party with any notice of the assignment of the registered Mortgage. We have no obligation to assign or transfer the Agreements.
- 22.03 Any assignment or transfer of the registered Mortgage will be on a non-recourse basis.

SECTION 23 WHO IS BOUND BY THE MORTGAGE

- 23.01 You agree to observe and be bound by all of the terms and obligations contained in the Mortgage. The Mortgage will also be binding on your heirs, personal representatives and any Person to whom the Property is transferred, and shall benefit us and our successors and assigns. All Persons who sign or who are otherwise bound by the Mortgage are jointly and severally bound to comply with all obligations under the Mortgage.

SECTION 24 HEADINGS

24.01 The headings in the body of the Mortgage form no part of the Mortgage. They are inserted for convenience only. You agree that all of the provisions stated in these Optional Covenants and Conditions form a part of the Mortgage.

SECTION 25 STATUTORY COVENANTS EXCLUDED

25.01 Statutory covenants and conditions are excluded from the Mortgage.

SECTION 26 HOME WARRANTY PLAN/PROGRAM

- 26.01 If a home warranty plan/program or any other regulatory program applicable to new homes under a regulatory authority applies to your Property, you agree to meet all of its requirements. You also agree to reimburse us for any Costs and Servicing Fees that we incur in meeting your obligations or enforcing your rights on your behalf, if we choose to do so. You will pay our related Costs and Servicing Fees immediately.
- 26.02 Where you have purchased the Property from a builder, or where a general contractor is building the Property, we must be satisfied that the builder/contractor and the housing unit are registered under a home warranty plan/program or any other regulatory program applicable to new homes prior to disbursement of funds. You will provide evidence satisfactory to us, in the form prescribed under the home warranty plan/program or other regulatory program applicable to new homes, and any other evidence we may require until we are satisfied, in our sole and absolute discretion, that the Property is completed and is ready to be occupied. If you are acting as the contractor and are not a builder, you will provide proof, issued by the appropriate authority, and any other evidence we may require until we are satisfied in our sole and absolute discretion that the Property is ready to be occupied. You will immediately pay any related Costs and Servicing Fees to satisfy our requirements.

SECTION 27 OUR PRIORITY

27.01 Our Mortgage has priority for the Obligations Secured over every interest in the Property created in favour of any other Person after our Mortgage was entered into. Our Mortgage has priority even if an Agreement with us for the Obligations Secured is entered into after our Mortgage was entered into, and even if that Agreement is not registered. Our providing a mortgage statement does not constitute consent to any encumbrance or interest.

SECTION 28 FINAL REPORT

28.01 Where you have retained a solicitor and the solicitor is required to submit a Report on Title in a form that is satisfactory to us, in our sole and absolute discretion, including without limitation originals if requested and with the applicable enclosures, together with the form provided by the title insurance provider if applicable, together with evidence of the registered Mortgage, and the solicitor fails to do so within thirty (30) calendar days after the final advance is made, we are entitled to retain another solicitor or title insurer, if applicable, to satisfy our requirements at your expense. You will pay our Costs and Servicing Fees immediately.

SECTION 29 CONFLICT

29.01 If there is any conflict between the terms of the Mortgage and the terms of the Agreements, the Agreements will prevail to the extent of such conflict.

SECTION 30 CHANGE OF CORPORATE CONTROL OR STATUS

30.01 If you are a corporation, you agree that:

- (a) you will provide us, in a form satisfactory to us, with such information relating to the ownership of your shares as we may from time to time require; and
- (b) you will not transfer, issue or redeem any of your shares or amalgamate, merge or consolidate with any other corporation, without our prior written consent.

SECTION 31 REPRESENTATIONS AND WARRANTIES

31.01 If you are a corporation, you represent and agree on a continuous basis while any Obligations Secured remain outstanding that:

- (a) you are duly organized, validly existing and in good standing under the laws of your governing jurisdiction;
 - (b) you have full power, authority and legal right to own your interest in the Property and are duly qualified to do your business and are in good standing in each jurisdiction where qualification is necessary for your business and you have not commenced any dissolution or reorganization proceedings;
 - (c) you have full power, authority and legal right to enter into the this Mortgage and the Agreements and to do all acts and execute and deliver all other documents as are required to be done, observed or performed by you under this Mortgage and/or the Agreements;
 - (d) you have taken all necessary action and proceedings to authorize the execution, delivery and performance of the Mortgage and the Agreements and to observe and perform the provisions of each;
 - (e) neither the execution and delivery of the Mortgage and the Agreements, nor compliance with the terms and conditions of any of them,
 - (i) has resulted or will result in a violation of the constating documents governing you, including without limitation any unanimous shareholders' agreement, or any resolution passed by your board of directors or shareholders;
 - (ii) has resulted or will result in a breach of or constitute a default under applicable laws or any agreement or instrument to which you are a party or by which you or the Property or any part of the Property is bound; or
 - (iii) requires any approval or consent of any Person except such as has already been obtained.
- 31.02 You further agree that all statements, information or documents which you have given or made to us, or which you give or make to us in the future, in applying for the Obligations Secured, or in any Agreement, including without limitation the Mortgage, are true and accurate. If we discover that any statement, information or document which you have given or made to us, or which you give or make to us in the future, in applying for the Obligations Secured, or in any Agreement, including without limitation the Mortgage, is untrue and/or inaccurate, you will be in default of your

obligations under the Mortgage , the Agreements and the Obligations Secured and the entire balance of the Obligations Secured will, at our option, immediately become due and payable, regardless of whether you knew that the statement, information or document was untrue and/or inaccurate at the time it was given or made to us and regardless of whether we relied or did not rely on the truth or accuracy of any such statement, information or document.

- 31.03 If there is more than one of you and any untrue and/or inaccurate statement, information or document is given or made to us by only one of you, all of you will be considered to be in default of your obligations under the Mortgage, the Agreements and the Obligations Secured, and we will have the right to demand immediate payment of the entire balance of the Obligations Secured from any or all of you, at our option.

SECTION 32 COSTS AND SERVICING FEES

32.01 Costs and Servicing Fees include costs, servicing fees for our time and expenses for all aspects of the administration of the Mortgage and the Agreements including, without limitation, a fee or allowance for:

- (a) administering the account for the collection and payment of taxes and tax matters;
- (b) investigating any insurance matters, administering insurance cancellations, paying insurance premiums, dealing with insurance claims or taking out any insurance under an individual or blanket insurance policy issued to us;
- (c) investigating the status of realty tax matters and administering tax payments;
- (d) generally, any matter connected with the administration of the Mortgage , the Agreements and your Property including, without limitation, inquiring into compliance, dealing with or enforcing any obligation contained in the Mortgage or Agreements and including, without limitation, preparation, processing and administration of legal actions and enforcements, requests by you or third parties, taxes, condominium fees, and condominium matters, insurance, repair and construction, environmental matters, leases and other encumbrances and managing or selling your Property;
- (e) investigating the status of any condominium fees, common expenses and other condominium matters;
- (f) administering condominium fees, common expenses and other condominium matters;
- (g) collecting money for and making payments with respect to condominium fees, common expenses and other condominium matters;
- (h) investigating the title to the Property;
- (i) collecting any payments not received from you when due;
- (j) paying, on your behalf, any charges, mortgages, liens, claims, or other encumbrances or any common expenses, levies, assessments, and contributions;
- (k) making any repairs which we consider necessary or completing any construction;
- (l) curing any default under a lease referred to in the Mortgage or the Agreements;
- (m) conducting any inspections or appraisals and engaging any other external experts, appraisers, consultants, service providers or representatives, including without limitation legal representatives;
- (n) conducting any environmental testing, site assessments, appraisals, occupancy checks, investigations or studies;
- (o) consulting on and approving any plans and proposals related to your Property;
- (p) removing, moving, disposing, storing or dealing with any chattels, fixtures or personal belongings on the Property;
- (q) enforcing or protecting our security or any of our rights under the Obligations Secured;
- (r) taking or keeping possession of the Property;
- (s) preparing, reviewing, executing, or registering the Mortgage , a discharge of the Mortgage , a partial discharge of the Mortgage , or any other discharge, withdrawal or postponement of the Mortgage ;
- (t) preparing, reviewing, and executing the assignment of the registered Mortgage and any matters in connection with the assignment of the registered Mortgage ;
- (u) meeting your obligations or enforcing your rights under a home warranty plan/program or any other regulatory program applicable to new homes on your behalf; and
- (v) retaining a solicitor, or title insurer, if applicable, with respect to any title matter relating to the Property.

32.02 Our servicing fees shall be the amounts established disclosed and generally applied by us from time to time and may be ascertained upon inquiry to us. We have the right to change the fees we charge from time to time without notifying you.

32.03 In addition, costs include, without limitation, legal fees in an amount that represents full indemnity and all other costs related to enforcing or protecting our security or any of our rights under the Mortgage or any Agreements.

32.04 You will pay our Costs and Servicing Fees under the Mortgage and Agreements immediately. If you do not, we may declare that you are in default or add these amounts to the Obligations Secured, or do both. If we add these amounts to the Obligations Secured, interest will be charged at the interest rate provided for in the applicable Agreement until they are repaid.

SECTION 33 ADDITIONAL COSTS AND SERVICING FEES

33.01 In addition to the Costs and Servicing Fees outlined in the Mortgage and the Agreements, you also agree to pay to us immediately our Costs and Servicing Fees in connection with the administration and processing of any requests by you or third parties related to your Mortgage or Property.

33.02 For greater certainty, the charging of an administration and processing fee does not prevent us from engaging external experts, appraisers, consultants, service providers or representatives, including without limitation legal representatives, to assist with a matter related to your Property and/or your Mortgage and you will be responsible for any and all expenses, Costs and Servicing Fees, including without limitation legal fees in an amount that represents full indemnity, associated therewith.

SECTION 34 ASSIGNABILITY

- 34.01 We may, at our option, sell, assign or deposit all or any part of the Obligations Secured, any Agreement and/or this Mortgage to one or more third parties (including without limitation a mortgage default insurer if any mortgage loan secured by this Mortgage is insured or a title insurer, if title insurance has been obtained in connection with this Mortgage), without notice to you or your consent. This Mortgage, any Agreement and/or any Obligations Secured once sold, assigned or deposited may be repurchased or reacquired by us, whether or not in default, without notice to you or your consent. If any part of the Obligations Secured is so sold, assigned or deposited and we retain any part of the Obligations Secured, we have the right to require you to provide us with another mortgage to be registered on the Property with respect to the Obligations Secured retained by us.
- 34.02 In addition, we may also disclose information about you, the Mortgage, the Agreements and the Obligations Secured to a mortgage default insurer or other insurer, or other third party from whom we may obtain benefits that protect our security. You consent to insurers and other third parties that provide benefits or services to us for the Mortgage obtaining information about you from credit bureaus and other lenders to evaluate you and the Mortgage.

SECTION 35 SEVERABILITY

- 35.01 If any provision of this Mortgage is held to be illegal, invalid, or unenforceable, that provision will be fully severable and this Mortgage will be construed and enforced as if such illegal, invalid or unenforceable provision had never been part of this Mortgage and the remaining provisions of this Mortgage shall remain in full effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from the Mortgage. In lieu of the illegal, invalid or unenforceable provision there shall be added automatically as part of this Mortgage a provision as similar in terms to the illegal, invalid or unenforceable provision as may be possible to be legal, valid and enforceable.

FORM 44
CERTIFICATE OF EXECUTION
Land Titles Act, S.N.B. 1981, c. L-1.1, s.55

Notary Public: _____
(name)

(address)

Jurisdiction: _____

Place of Residence of Notary Public: _____

Person(s) Who Executed the Instrument: _____
(name)

(address)

(name)

(address)

Place of Execution: _____

Date of Execution: _____

I, the notary public, a Notary Public in and for the jurisdiction specified above and residing at the place of residence specified above, do hereby certify:

1. That the person(s) who executed the attached instrument personally appeared before me;
2. That the person(s) is/are known to me or the person's (persons') identity has been proved to my satisfaction;
3. That I explained to the person(s) the contents of the attached instrument to the best of my professional abilities;
4. That, after receiving the explanation, the person(s) executed the attached instrument voluntarily at the place and on the date specified above;
5. That the person(s) acknowledged that he/she/they is/are of the age of majority;
6. That I have ascertained that the name by which the person(s) is/are identified in the attached instrument is/are the person's (persons') name(s) in accordance with the *Naming Conventions Regulation* under the *Land Titles Act*, and
7. That I have signed the attached instrument next to the signature(s) of the person(s) for whom this Certificate of Execution has been prepared, with my name printed legibly underneath my signature.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial Seal.

Place: _____

Date: _____

*Notary Public: _____

*Certificate must be taken before a Notary Public in and for the place where taken and he/she must impress his/her official seal here.

FORM 55

AFFIDAVIT OF MARITAL STATUS

Land Titles Act, S.N.B. 1981, c. L-1.1, s.81

Deponent:

(name)

(address)

(name)

(address)

Spouse of Deponent:

(name)

(address)

Date of Domestic Contract:

Date of Court Order:

I/WE, the deponent, make oath and say:

- 1. That I am(we are) a person(s) conveying an interest in the attached instrument and have personal knowledge of the matters hereinafter deposed to;

DELETE INAPPLICABLE CLAUSES

- 2. That I am/we are not married;

OR

That the name of my spouse is as specified above;

- 3. That I/we have no former spouse with a right under the **Marital Property Act** to any interest in or possession of the subject land;

- 4. That the subject land has (not) been occupied by me and my spouse as our marital home;

- 5. That my spouse has joined in this instrument and has consented to the disposition for the purpose of complying with section 19 of the **Marital Property Act**,

OR

The signature of my spouse is not required because

my spouse has released all rights to the marital home by reason of a domestic contract dated as specified above.

OR

the marital home has been released by order of The Court of Queen's Bench of New Brunswick dated as specified above, pursuant to paragraph 23(1)(b) of the **Marital Property Act**.

OR

this disposition has been authorized by The Court of Queen's Bench of New Brunswick by order dated as specified above.

SWORN TO at the _____ of _____)

_____ in the _____)

of _____ on the _____)

day of _____, _____)

Before Me: _____)

_____)

_____)

Commissioner of Oaths Being a Solicitor)

*Notary Public)

*Where Affidavit of Marital Status is taken outside New Brunswick, it must be taken before a Notary Public in and for the place where taken and he/she must impress his/her official seal here.

(mortgagor)

– and –

THE BANK OF NOVA SCOTIA
(mortgagee)

(Branch Address)

Date _____

Form 15.1

COLLATERAL MORTGAGE

Land Titles Act, S.N.B. 1981, c.L-1.1, s.25
Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2

SOLICITORS: