

## **STANDARD MORTGAGE TERMS**

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**These standard mortgage terms shall be deemed to be included in and form part of every mortgage which incorporates and refers to them by their filing number.**

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## MORTGAGE TERMS

### 1. DEFINITIONS

#### 1.1 In the Mortgage;

- (a) **"Assignment of Rents"** means the provisions of the Mortgage in the section of the Mortgage Terms called "Assignment of Rents";
- (b) **"Balance Due Date"** means the balance due date shown on the Mortgage Form and is the date on which all unpaid Mortgage Money becomes due and payable, or such earlier date on which Citizens Bank can lawfully require payment of the Mortgage Money;
- (c) **"Borrower"** means the person or persons described in the Mortgage Form as the borrower, chargor or mortgagor and who signed the Mortgage Form as the borrower, chargor or mortgagor and the heirs, personal representatives, successors and assigns of the Borrower;
- (d) **"Borrower's Promises and Agreements"** means any one or more of the Borrower's obligations, acknowledgments, promises and agreements contained in the Mortgage, in the section of the Mortgage Terms called "Borrower's Promises and Agreements" or elsewhere;
- (e) **"Citizens Bank"** means Citizens Bank of Canada, and being the party described in the Mortgage form as the "Mortgagee", and the successors and assigns of Citizens Bank of Canada;
- (f) **"Commitment"** means any commitment document(s) issued by Citizens Bank to the Borrower for the Mortgage, and any application(s) for the Commitment;
- (g) **"Company"** means the Borrower or the Covenantor, if the Borrower or the Covenantor is a company;
- (h) **"Court"** means a court, Judge, Master, or a Registrar, District Registrar, Deputy Registrar or Registrar General of a court or a Land Title Office, or other judicial or quasi-judicial officer having jurisdiction in any manner arising out of the Mortgage;
- (i) **"Covenantor"** means the person or persons who signed the Mortgage Form as the covenantor or guarantor or as the covenantors or guarantors and the heirs, personal

representatives, successors and assigns of the Covenantor;

- (j) **"Covenantor's Promises and Agreements"** means any one or more of the Covenantor's obligations, acknowledgments, promises and agreements contained in the Mortgage, in the section of the Mortgage Terms called "Covenantor's Promises and Agreements" or elsewhere;
- (k) **"Default"** includes each of the events of default listed in the section of the Mortgage Terms called "Default";
- (l) **"Income"** means any rents and profits of or arising from or in any way connected with the Land or the Rental Agreements;
- (m) **"Interest"** means interest at the Interest Rate;
- (n) **"Interest Adjustment Date"** means the interest adjustment date shown on the Mortgage Form;
- (o) **"Interest Calculation Period"** means the period or periods for the calculation of interest shown on the Mortgage Form;
- (p) **"Interest Rate"** means the interest rate or rates shown on the Mortgage Form, or such other interest rate or rates as may be agreed in writing between Citizens Bank and the Borrower after execution of the Mortgage Form;
- (q) **"Land"** means all the Borrower's present and future interest in the land described in the Mortgage Form including every incidental right, benefit or privilege attaching to that land or running with it and all buildings and improvements that are now or later constructed on or made to that land and all apparatus and equipment now or later attached to or added to such buildings and improvements, which apparatus and equipment shall be fixtures;
- (r) **"Land Title Office"** means the government or other office in which the title to the Land is registered or recorded;
- (s) **"Lease"** means with respect to any part of the Land in which the Borrower has a leasehold interest, the lease or leases under which such leasehold interest is created and any lease or leases with respect to all or any part of the Land which may be entered into in replacement of or renewal of such lease or leases, as any of the foregoing may be amended from time to time;

- (l) **"Legal Costs"** means actual legal costs, on a solicitor and own client (full indemnity) basis;
- (u) **"Loan Payment"** means the amount of each periodic payment shown on the Mortgage Form;
- (v) **"Mortgage"** means the Mortgage Form and the Mortgage Terms;
- (w) **"Mortgage Form"** means the document prescribed by statute or regulation as the first part of the Mortgage, which makes reference to the Mortgage Terms, and includes all schedules and addenda to such document;
- (x) **"Mortgage Money"** means the Principal Amount, Interest and any other money owed by the Borrower under the Mortgage, the payment of which is secured by the Mortgage;
- (y) **"Mortgage Terms"** means these mortgage, or charge, or standard charge mortgage, terms;
- (z) **"Other Charges"** means any mortgage, agreement for sale or other charge or encumbrance of any kind whatsoever of or against the Land;
- (aa) **"Payment Date"** means each payment date commencing on the first payment date shown on the Mortgage Form;
- (bb) **"Permitted Encumbrances"** means charges affecting the Land or the Borrower's interest in the Land consented to in writing by Citizens Bank;
- (cc) **"Place of Payment"** means the place of payment shown on the Mortgage Form or any other place specified in a written notice given by Citizens Bank to the Borrower under the Mortgage Terms;
- (dd) **"Prime"** means that fluctuating rate of interest charged by the head office of Citizens Bank and called by Citizens Bank its prime rate, as it is designated by Citizens Bank from time to time;
- (ee) **"Principal Amount"** means the amount of money shown as the principal amount on the Mortgage Form as reduced by payments made by the Borrower from time to time, or increased by the advance or re-advance of money to the Borrower by Citizens Bank from time to time, and includes all money that is later added to the Principal Amount under the

**Mortgage Terms;**

- (ff) **"Receiver"** means a receiver or receiver-manager of the Land or the rents and profits of the Land;
- (gg) **"Rental Agreements"** means all rental agreements, leases, licenses, occupancy or similar agreements or arrangements, whether written or oral, and any renewals, replacements and amendments, of, for or in any way connected with or relating to the Land or the Income;
- (hh) **"Strata Lot"** means a strata lot or condominium unit;
- (ii) **"Strata Corporation"** means the corporation governing the Strata Lot;
- (jj) **"Taxes"** means all taxes, rates, assessments, local improvement rates, utilities and similar charges levied on the Land by any lawful authority.

**2. WHAT THE MORTGAGE DOES**

2.1 In return for Citizens Bank agreeing to lend all or part of the Principal Amount to the Borrower, the Borrower grants and mortgages the Land to Citizens Bank as security for repayment of the Mortgage Money and for performance of all the Borrower's Promises and Agreements;

2.2 If the Land comprises or includes a Lease;

- (a) the last day of the term of the Lease is excluded from the Mortgage;
- (b) the Borrower acknowledges that the last day of the term of the Lease is held in trust by the Borrower for and on behalf of Citizens Bank;
- (c) the Borrower irrevocably appoints all officers of Citizens Bank as attorneys of the Borrower, for the purpose of and with full authority to deal with the last day of the term of the Lease as they choose.

2.3 This means that;

- (a) the Mortgage shall be a charge on the Land; and
- (b) the Borrower releases to Citizens Bank all the Borrower's claim to the Land until the Borrower has paid the Mortgage Money to Citizens Bank, in accordance with the

Mortgage Terms, and has performed all of the Borrower's Promises and Agreements;

2.4 The Borrower may continue to remain in possession of the Land as long as the Borrower performs all of the Borrower's Promises and Agreements;

2.5 When the Borrower has paid the Mortgage Money and performed all the Borrower's Promises and Agreements under the Mortgage and Citizens Bank has no obligation to make any further advances or re-advances, the Borrower will be entitled, at the Borrower's cost unless prohibited by law, to receive a discharge of the Mortgage. The discharge must be registered in the Land Title Office, to cancel the registration of the Mortgage against the Land. Citizens Bank has no obligation to register the discharge at the Land Title Office.

### 3. INTEREST

3.1 The Borrower promises and agrees that;

- (a) Interest is chargeable on the Mortgage Money and is payable by the Borrower, both before and after Default and the Balance Due Date;
- (b) Interest on advances or re-advances of the Principal Amount starts on the date and on the amount of each advance or re-advance, and accrues on the Principal Amount until the date the Borrower has paid or is deemed under the Mortgage to have paid, all the Mortgage Money;
- (c) Interest accrues on, and is payable for, the actual dates of advances and payment or deemed payment;
- (d) Interest payable on any part of the Principal Amount advanced before the Interest Adjustment Date is due and payable to Citizens Bank on the Interest Adjustment Date;
- (e) at the end of each Interest Calculation Period, unpaid accrued interest will be added to the Principal Amount and bear Interest; this is known as compound interest;
- (f) a certificate of an officer of Citizens Bank shall be conclusive evidence of Prime and of Interest from time to time;
- (g) when Prime increases or decreases, then and so often as that may happen, the Interest payable under the Mortgage, if it is related to Prime, shall be increased or decreased accordingly.

**4. PAYMENT OF THE MORTGAGE MONEY**

4.1 The Borrower promises to pay the Mortgage Money to Citizens Bank at the Place of Payment in accordance with the payment provisions set out in the Mortgage, without abatement, set-off or counterclaim.

4.2 Payments received by Citizens Bank after 1:00 p.m. or on a Saturday, Sunday or statutory holiday shall be deemed to be received on and shall not be applied to the Mortgage Money until the next day which is not a Saturday, Sunday or statutory holiday;

4.3 The Borrower shall supply to Citizens Bank for the term of the Mortgage a pre-authorized account payment form acceptable to Citizens Bank for the Loan Payments;

4.4 If a payment under the Mortgage is not paid, not honoured by the Borrower's financial institution or paid late, the Borrower shall pay Citizens Bank a fee of \$50.00 on each such occasion, in addition to any other remedies in the Mortgage.

**5. PREPAYMENT OF THE MORTGAGE MONEY**

5.1 The Borrower does not have the right to prepay all or any part of the Mortgage Money unless such right is set forth in the Mortgage Form, and then only exactly as set forth in the Mortgage Form.

**6. BORROWER'S PROMISES AND AGREEMENTS**

6.1 The Borrower promises and agrees;

- (a) to comply with all terms and conditions of any Permitted Encumbrances;
- (b) to comply with all laws, bylaws and orders (federal, provincial, municipal or otherwise) that apply to the Land;
- (c) to sign any other document that Citizens Bank reasonably requires to ensure that payment of the Mortgage Money is secured by the Mortgage or by any other security the Borrower has agreed to give to Citizens Bank;
- (d) to keep all buildings and improvements which form part of the Land in good condition and to repair them as Citizens Bank reasonably requires;
- (e) not to tear down any building or improvement or part of a building or improvement which



forms part of the Land or to do anything that has the effect of reducing the value of the Land;

- (f) not to construct, alter or add to any buildings or improvements on the Land without the prior written consent of Citizens Bank, and then only in accordance with all accepted construction standards, building codes, government requirements and plans and specifications approved in writing by Citizens Bank;
- (g) if the Borrower has rented the Land or any part of the Land to a tenant, to keep records of the Income and of all expenses paid by the Borrower in connection with the Land and, at least annually, have a statement of revenue and expenses for the Land prepared by a professional accountant and to immediately give a copy of the statement to Citizens Bank, if Citizens Bank requires the Borrower to do so;
- (h) to pay, except where prohibited by law, all of Citizens Bank's fees and costs, including Legal Costs, to;
  - (i) inspect the Land;
  - (ii) investigate title to the Land;
  - (iii) prepare and register the Mortgage and other security, or renewals thereof, including all necessary steps to advance and secure the Mortgage Money and to report to Citizens Bank;
  - (iv) collect the Mortgage Money;
  - (v) enforce the terms of the Mortgage, including efforts to compel the Borrower to perform the Borrower's Promises and Agreements;
  - (vi) take and keep possession of the Land;
  - (vii) protect, preserve and defend Citizens Bank's interest in the Mortgage and the Land;
  - (viii) remove, dispose of, or otherwise deal with personal property left on the Land;
  - (ix) insure Citizens Bank's interest in the Lands;
  - (x) appraise the Lands;
  - (xi) investigate the environmental state of the Lands;

- (xii) remediate any environmental contamination or potential contamination of the Lands, or to comply with any requirement in this regard of any government;
  - (xiii) prepare a discharge of the Mortgage when the Borrower has paid all money due under the Mortgage and the Borrower wants it to be discharged;
  - (xiv) prepare Mortgage Money statements for discharge or assumption purposes or otherwise;
  - (xv) prepare renewal, extension or assumption agreements or documents;
  - (xvi) receive and process requests for assumption, extension or renewal, restructuring, reinstatement or other amendment of the Mortgage, whether or not completed; or;
  - (xvii) effect an assumption or transfer of the Mortgage;
  - (xviii) do anything which the Borrower has promised to do but has not done;
- (i) to pay any money which, if not paid, would result in a default under any Other Charges or which might result in a sale of the Land;
  - (j) to pay and cause to be discharged any Other Charges which are not Permitted Encumbrances;
  - (k) that the Borrower owns the Land and has the right to mortgage the Land to Citizens Bank;
  - (l) that the Borrower's title to the Land is subject only to:
    - (i) those charges and encumbrances that are registered in the Land Title Office at the time the Borrower signed the Mortgage Form;
    - (ii) any unregistered charges and encumbrances that Citizens Bank has agreed to in writing;
  - (m) that, subject to the immediately foregoing, the Borrower;
    - (i) has not granted any Other Charges;
    - (ii) has no knowledge of any other claims against the Land;
  - (n) that the Commitment is part of the Mortgage and if any part of the Commitment is

inconsistent with any part of the Mortgage Citizens Bank can determine, at its sole option, whether that part of the Commitment or that part of the Mortgage prevails;

- (o) all representations and warranties of the Borrower in the Commitment are true.

## **7. AGREEMENTS BETWEEN THE BORROWER AND CITIZENS BANK**

**7.1** Any money paid to Citizens Bank under the Mortgage shall;

- (a) prior to a Default, be applied first in payment of any money other than the Principal Amount and Interest, second in payment of Interest, and third in payment of the Principal Amount; and
- (b) after a Default, be applied to the Mortgage Money in any manner Citizens Bank chooses;

**7.2** Citizens Bank may at any reasonable time inspect or have appraised the Land and any buildings and improvements which form part of it;

**7.3** If Citizens Bank takes possession of the Land Citizens Bank will not be responsible for maintaining and preserving the Land and need only account to the Borrower for any money which Citizens Bank actually receives in connection with the Land;

**7.4** Citizens Bank may, if it chooses, spend money to perform any of the Borrower's Promises and Agreements which the Borrower has not performed and any money so spent shall be added to the Principal Amount and be secured by the Mortgage, bear Interest from the date that the money was so spent, and be immediately due and payable to Citizens Bank. Citizens Bank can rely on any statement as to the amount of money required to be so spent, and the Borrower will not have any remedy against Citizens Bank if any such statement is not correct;

**7.5** If the Borrower wants to give any notice to Citizens Bank, the Borrower must do so by having it delivered personally to a vice president of Citizens Bank;

**7.6** If Citizens Bank wants to give any notice to the Borrower, Citizens Bank may do so by having it delivered to or by sending it by mail to the last address of the Borrower or the Borrower's legal representative known to Citizens Bank, or by sending it by facsimile transmission to the last known facsimile number of the Borrower or the Borrower's legal representative known to Citizens Bank;

**7.7** The Borrower is not released from the Borrower's Promises and Agreements only because the Borrower sells the Land;

**7.8** The Borrower is not released from the Borrower's Promises and Agreements only because, after the Borrower sells the Land, any change is made to the terms and conditions of the Mortgage (and, in that event, the Borrower agrees to be bound by any such change);

**7.9** If the Borrower has mortgaged or charged anything else to Citizens Bank to secure payment of the Mortgage Money, Citizens Bank may take all lawful proceedings under any of the mortgages or charges in any order that Citizens Bank chooses;

**7.10** The Mortgage is in addition to and not in substitution for any other security held by Citizens Bank for the Mortgage Money;

**7.11** Citizens Bank's right of consolidation applies to the Mortgage and to any other mortgages given by the Borrower to Citizens Bank. This means that if the Borrower has mortgaged other property to Citizens Bank the Borrower will not have the right, after a Default, to pay off the Mortgage or any other mortgage unless the Borrower pays Citizens Bank all money owed by the Borrower under the Mortgage and all of the other mortgages;

**7.12** The Borrower agrees that Citizens Bank may securitize, assign or pledge the Mortgage, without the consent of the Borrower. The Borrower irrevocably agrees that Citizens Bank can collect, use and disclose all personal information included in or relevant to the Mortgage (including credit and default information) with respect to the Borrower or any Covenantor in connection with such securitization, assignment or pledge, or with respect to collection or enforcement proceedings for the Mortgage;

**7.13** Citizens Bank does not have to advance or re-advance the Principal Amount or the rest or any further part of the Principal Amount to the Borrower even though;

- (a) the Borrower has signed the Mortgage;
- (b) the Mortgage is registered in the Land Title Office; or
- (c) Citizens Bank has advanced part of the Principal Amount;

**7.14** Citizens Bank may deduct from any advance of the Principal Amount;

- (a) any Taxes that are due;
- (b) any Interest that is due and payable to the date of the advance, and to the Interest Adjustment Date;
- (c) all of Citizens Bank's fees and costs, including Legal Costs, of and in connection with the

preparation and registration of the Mortgage and other security, including other necessary steps to advance and secure the Mortgage Money and to report to Citizens Bank;

- (d) any insurance premium;
- (e) any appraisal or inspection fees; or
- (f) any other money owing to Citizens Bank by the Borrower.

**8. INSURANCE**

8.1 The Borrower promises and agrees;

- (a) to insure and keep insured against the risk of fire and other risks and losses that Citizens Bank asks the Borrower to insure against, with an insurance company licensed to do business and acceptable to Citizens Bank, all buildings and improvements on the Land to their full insurable value on a replacement cost basis and to pay all insurance premiums when due;
- (b) The insurance policy or policies required by the Mortgage Terms shall contain a standard mortgage clause and earthquake coverage approved by Citizens Bank and shall state that payment of any loss shall be made to Citizens Bank at the Place of Payment and, if the Mortgage is not a first mortgage, the amount of any payment made by the insurance company shall be paid to the Borrower's lenders in the order of their priorities;
- (c) The Borrower gives up any statutory right to require the insurance proceeds to be applied in any particular manner;
- (d) to send a true copy of each insurance policy and renewal certificate to Citizens Bank at the Place of Payment;
- (e) If the Mortgage is in default, the Borrower shall pay Citizens Bank \$75.00 for each month during which default continues, as compensation for Citizens Bank's costs of insuring its interest in the Lands;
- (f) that if Citizens Bank insures its interest in the Lands, Citizens Bank is under no obligation to otherwise insure the Lands.

**9. TAXES**

9.1 The Borrower promises and agrees;

- (a) to pay all Taxes when they are due and to immediately send to Citizens Bank at the Place of Payment all notices of Taxes which the Borrower receives and proof of payment of all Taxes once they are paid;
- (b) to apply for all government grants, assistance and rebates in respect of Taxes.

**10. DEFAULT**

10.1 Default occurs under the Mortgage if;

- (a) the Borrower breaks any of the Borrower's Promises and Agreements;
- (b) the Covenantor breaks any of the Covenantor's Promises and Agreements;
- (c) the Borrower breaks any promise or agreement which the Borrower has made to Citizens Bank in a mortgage of any other land or other property or in any other agreement the Borrower has made with Citizens Bank;
- (d) the Covenantor breaks any promise or agreement which the Covenantor has made to Citizens Bank in a mortgage of any other land or other property or in any other agreement the Covenantor has made with Citizens Bank;
- (e) the Borrower or the Covenantor breaks any of their promises and agreements in the Commitment;
- (f) any of the representations of the Borrower or the Covenantor in the Mortgage or the Commitment are false;
- (g) the Borrower or the Covenantor breaks any of their promises and agreements in any Other Charges;
- (h) the Borrower or the Covenantor becomes bankrupt or insolvent;
- (i) the Land is abandoned or is left unoccupied for thirty or more consecutive days, or construction of any building or improvement on the Land ceases for thirty or more consecutive days, without the prior written consent of Citizens Bank;

- (j) the Land or any part of it is expropriated;
- (k) the Borrower sells or agrees to sell all or any part of the Land, or the Borrower leases all or any part of the Land, or the Borrower grants an option to purchase or a right of first refusal for all or any part of the Land, without the prior written consent of Citizens Bank;
- (l) the Borrower gives another mortgage or charge of the Land or the Income to someone other than Citizens Bank without the prior written consent of Citizens Bank;
- (m) the Borrower does not discharge any judgment or similar charge registered in the Land Title Office against the Land within thirty days after its registration; or
- (n) the Borrower allows any claim of builders lien or similar charge to remain registered in the Land Title Office against the Land for more than thirty days after its registration, unless the Borrower;
  - (i) diligently disputes the validity of the claim by taking all necessary legal steps to do so;
  - (ii) gives Citizens Bank security acceptable to it, to pay the claim in full if it is found to be valid; and
  - (iii) authorizes Citizens Bank to use, if it chooses, the security to pay the lien in full;
- (o) there is default under the Lease; or
- (p) a Receiver is appointed;

10.2 If a Default occurs under the Mortgage, it will have the same effect as though a Default had occurred under any other mortgage or agreement between the Borrower and Citizens Bank or the Covenantor and Citizens Bank.

## 11. CONSEQUENCES OF A DEFAULT

11.1 If a Default occurs, all the Mortgage Money then owing to Citizens Bank will, if Citizens Bank chooses, at once become due and payable;

11.2 If a Default occurs, the Borrower waives any rights of reinstatement, whether by statute or otherwise;

11.3 If a Default occurs and involves the failure of the Borrower or the Covenantor to pay any

money required to be paid by either of them under the Mortgage, Citizens Bank may, if it chooses, make that payment and add it to the Principal Amount, without in any way waiving or excusing that Default;

11.4 If a Default occurs Citizens Bank may, in any order that Citizens Bank chooses, do any one or more of the following;

- (a) demand payment of all the Mortgage Money;
- (b) sue the Borrower for the amount of money due;
- (c) sue the Covenantor for the amount of money due;
- (d) take proceedings and any other legal steps to compel the Borrower to keep the Borrower's Promises and Agreements;
- (c) take proceedings and any other legal steps to compel the Covenantor to keep the Covenantor's Promises and Agreements;
- (d) sell the Land;
- (e) apply to the Court for an Order that the Land be sold;
- (h) apply to the Court to foreclose the Borrower's interest in the Land so that when the Court makes its final order of foreclosure the Borrower's interest in the Land will be absolutely vested in and belong to Citizens Bank;
- (i) appoint a Receiver;
- (j) without becoming a mortgagee in possession, enter on the Land without the permission of anyone and make any arrangements Citizens Bank considers necessary to;
  - (i) inspect, lease, collect rents or manage the Land;
  - (ii) complete the construction of any building or improvement on the Land; or
  - (iii) repair any building or improvement on the Land;
- (k) take, recover and keep possession of the Land;
- (l) insure Citizens Bank's interest in the Lands (whether or not the Lands are partially or fully Insured);



**11.5** If Citizens Bank sells the Land, the following terms and conditions shall apply to such a sale:

- (a) notice shall be given to the Borrower and any other persons in such manner and form and within such time as provided by statute or regulation in the Province where the Land is located. Unless otherwise required, the Borrower agrees that notice may be given by having it delivered to or by sending it by mail to the last address of the Borrower or the Borrower's legal representative known to Citizens Bank, or by sending it by facsimile transmission to the last known facsimile number of the Borrower or the Borrower's legal representative known to Citizens Bank;
- (b) the sale may be conducted immediately upon expiration of any period required by law or at any time thereafter, and Citizens Bank may delay the sale for such period of time as it chooses;
- (c) Citizens Bank may sell the whole or any part or parts of the Land by public auction, private contract, or partly one or partly the other;
- (d) Citizens Bank may sell on such terms as to credit and otherwise as Citizens Bank chooses and for such prices as can reasonably be obtained, and may make any stipulations as to title or other matter which Citizens Bank chooses;
- (e) in the case of a sale on credit Citizens Bank will be bound to pay the Borrower or any other person with a claim thereto or apply on account of the Principal Amount only such monies as have actually been received from the purchaser from time to time;
- (f) after the satisfaction of the Mortgage Money, Citizens Bank is not bound to pay any remaining monies to the Borrower or any other person claiming entitlement thereto until all such agreements and assurances required by Citizens Bank have been executed and delivered;
- (g) Citizens Bank may buy in or rescind or vary any contract for the sale of the whole or any part of the Land, and resell without being responsible for any resulting loss;
- (h) any person, including Citizens Bank or any employee, agent or representative of Citizens Bank, may bid on, tender for or purchase the Land at the sale;
- (i) any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper. No

want of any required notice or publication shall invalidate any sale or lease under this Mortgage and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the power of sale shall not be liable to be impeached on the ground that no cause had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given; any person prejudiced by an unauthorized, improper or irregular exercise of the power shall have his or her remedy against the person exercising the power in damages only;

- (j) all provisions of the Mortgage relating to a sale of the Land following default, including, without limitation, the persons to whom notice of exercising the power of sale must be given and the manner of giving such notice, will be deemed to have been amended so as to comply with the requirements of law from time to time in force with respect to exercising any power of sale or other sale remedy; wherever any such requirement may be waived or shortened, such requirement is hereby waived and shortened.

11.6 If Citizens Bank obtains judgment against the Borrower as a result of a Default, the remedies in the Mortgage may continue to be used by Citizens Bank to compel the Borrower to perform the Borrower's Promises and Agreements, and the judgment will not result in the merger of any of the Borrower's Promises and Agreements;

11.7 If Citizens Bank obtains judgment against the Covenantor as a result of a Default, the remedies in the Mortgage may continue to be used by Citizens Bank to compel the Covenantor to perform the Covenantor's Promises and Agreements;

11.8 Citizens Bank will continue to be entitled to receive Interest on the Mortgage Money until all judgments are paid in full;

11.9 If Citizens Bank does not exercise any of Citizens Bank's rights on the happening of a Default or does not ask the Borrower or the Covenantor to cure it, Citizens Bank is not prevented from later compelling the Borrower or the Covenantor to cure that Default or exercising any of those rights in connection with that Default or any later Default of the same or any other kind;

11.10 Any personal property which remains on the Land after;

- (a) Citizens Bank takes possession of the Land;
- (b) a Receiver takes possession of the Land; or
- (c) the Land is sold;

will be deemed to be abandoned. Citizens Bank or a Receiver can remove, store, dispose of, or otherwise deal with such personal property as Citizens Bank or a Receiver chooses, and in so doing Citizens Bank or a Receiver shall not be or be deemed to be a bailee or liable in any way to the Borrower or any other person.

## **12. RECEIVER**

**12.1** The Borrower appoints both Citizens Bank and any agent of Citizens Bank as the Borrower's attorney to appoint a Receiver;

**12.2** Citizens Bank or Citizens Bank's agent may, if any Default happens, appoint a Receiver and the Receiver;

- (a) will be the Borrower's agent and the Borrower will be solely responsible for the Receiver's acts or omissions;
- (b) has power, either in the Borrower's name or in the name of Citizens Bank, to demand, recover and receive the Income and start and carry on any action or Court proceeding to collect the Income;
- (c) may give receipts for the Income which the Receiver receives;
- (d) may lease or sublease the Land or any part of it on terms and conditions that the Receiver chooses;
- (e) may complete the construction of or repair any building or improvement on the Land;
- (f) may take possession of all or part of the Land;
- (g) may manage the Land and maintain it in good condition;
- (h) has the power to perform, in whole or in part, the Borrower's Promises and Agreements;
- (i) has the power to do anything that, in the Receiver's opinion, will maintain and preserve the Land or will increase or preserve the value or income potential of the Land;
- (j) has the power to sell the Land, and the provisions of section 11.5 with respect to a sale by Citizens Bank will, to the extent applicable, apply to any sale by the Receiver;

**12.3** From the Income received the Receiver may do any of the following in any order the

Receiver chooses;

- (a) retain a commission or fees and disbursements;
- (b) pay all costs, including Legal Costs, in connection with the receivership or to collect the Income;
- (c) pay all Taxes and the cost of maintaining and preserving the Land, completing the construction of any building or improvement on the Land, supplying goods, utilities and services to the Land and taking steps to preserve the Land from damage by weather, vandalism or any other cause;
- (d) pay insurance premiums;
- (e) pay any money that might, if not paid, result in a default under any Other Charges or that might result in the sale of the Land if not paid;
- (f) pay Taxes in connection with anything the Receiver is entitled to do under the Mortgage;
- (g) pay Interest to Citizens Bank that is due and payable;
- (h) pay all or part of the Principal Amount to Citizens Bank whether or not it is due and payable;
- (i) pay any other money owed by the Borrower under the Mortgage;

12.4 The Receiver may borrow money for the purpose of doing anything the Receiver is authorized to do;

12.5 A Receiver may be removed by Citizens Bank and Citizens Bank may appoint another in the Receiver's place;

12.6 The costs, fees, disbursements and borrowings of the Receiver, including interest thereon and Legal Costs, may be paid by Citizens Bank and be added to the Mortgage Money;

12.7 Nothing done by the Receiver under this section will make Citizens Bank a mortgagee in possession.

### 13. ASSIGNMENT OF RENTS

13.1 Citizens Bank will not exercise its rights in this section unless a Default occurs;

13.2 The Borrower assigns to Citizens Bank all Rental Agreements and all rights and benefits under the Rental Agreements and all the Income;

13.3 Citizens Bank will not be responsible for the collection of the Income or any part of the Income or for the performance of any of the terms or conditions of the Rental Agreements;

13.4 Citizens Bank need only account for whatever money Citizens Bank actually receives by virtue of the Assignment of Rents less whatever costs, including Legal Costs, Citizens Bank may incur, and such money when received by Citizens Bank shall be applied on account of the Mortgage Money;

13.5 The Borrower and Citizens Bank acknowledge that the Assignment of Rents is an additional and collateral security for the Mortgage and not in substitution for or in satisfaction of it, and that the Mortgage will not be merged with the Assignment of Rents, and in case of a Default Citizens Bank may at its option take proceedings under either the Mortgage or the Assignment of Rents or both;

13.6 The Borrower will not accept prepayment of the Income due or becoming due and will only accept payment in due course;

13.7 The Income received by the Borrower will, unless otherwise permitted in writing by Citizens Bank, be held by the Borrower in trust for Citizens Bank and will be paid to Citizens Bank on demand;

13.8 Nothing done by Citizens Bank under this section will make Citizens Bank a mortgagee in possession.

#### 14. ASSIGNMENT OF PROCEEDS

14.1 The Borrower assigns to Citizens Bank all proceeds received or receivable by, or paid or payable to, the Borrower;

- (a) pursuant to any claim or action that the Borrower may have against any contractor, subcontractor, architect, supplier, materialman, designer, installer, manufacturer of equipment or any similar parties;
- (b) pursuant to any insurance held by any of the immediately preceding parties;
- (c) pursuant to any insurance for any public liability or property damage claim the Borrower may have against any parties;
- (d) pursuant to any sale or disposition of the Land or the Borrower;

14.2 The Borrower shall hold any of the proceeds set forth above and received by it as trustee for Citizens Bank.

**15. SUBDIVISION**

15.1 This section applies if the Land is subdivided;

15.2 The Mortgage will charge each subdivided lot as security for payment of all the Mortgage Money;

15.3 Citizens Bank is not required to partially discharge the Mortgage as a charge on any of the subdivided lots, unless all the Mortgage Money is paid;

15.4 Even though Citizens Bank is not required to discharge any subdivided lot from the Mortgage, Citizens Bank may agree to do so in return for payment of all or part of the Mortgage Money. If Citizens Bank discharges a subdivided lot, the Mortgage will continue to charge the subdivided lot or lots that have not been discharged.

**16. CONSTRUCTION MORTGAGE**

16.1 This section applies if the Mortgage is intended to finance any construction, alteration or addition on or to the Land;

16.2 The Borrower promises and agrees that;

- (a) Citizens Bank may make advances of the Principal Amount to the Borrower based on the progress of construction; Citizens Bank will decide whether or not any advances will be made, the amount of the advances, and when they will be made;
- (b) Citizens Bank can charge a fee, for each advance made;
- (c) Citizens Bank can erect one or two signs of reasonable prominence on the Land, indicating that Citizens Bank has provided the Mortgage Money;
- (d) All plans, specifications, materials and workmanship shall be subject to the approval of Citizens Bank;
- (e) Citizens Bank may inspect the Land and construction thereon at any time;
- (f) Citizens Bank is a lender only and is not involved in any way with construction, and the

Borrower indemnifies Citizens Bank from and against any claims which may be made against Citizens Bank arising from or in any way connected with this section;

**17. LEASEHOLD MORTGAGE**

**17.1** This section applies if the Land is or includes a leasehold interest;

**17.2** The Borrower promises and agrees that;

- (a) the Lease is owned by the Borrower subject only to those charges that are registered against the Land in the Land Title Office at the time the Borrower signs the Mortgage Form;
- (b) the Lease is in good standing;
- (c) the Borrower has complied with all the Borrower's promises and agreements in the Lease;
- (d) the Borrower has paid all rent that is due and payable under the Lease;
- (e) the Lease is not in default;
- (f) the Borrower has the right to mortgage the Lease to Citizens Bank;
- (g) the Borrower will comply with the Lease and not do anything that would cause the Lease to be terminated;
- (h) the Borrower will immediately give to Citizens Bank a copy of any notice or request received from the landlord;
- (i) the Borrower will immediately notify Citizens Bank if the landlord advises the Borrower of the landlord's intention to terminate the Lease before the term expires;
- (j) the Borrower will sign any other document Citizens Bank requires to ensure that any greater interest in the Land that is acquired by the Borrower is charged by the Mortgage;
- (k) the Borrower will not, without first obtaining the written consent of Citizens Bank, surrender or terminate or change the terms of the Lease;
- (l) the Borrower will renew the Lease or extend the term of the Lease as necessary to protect the interests of Citizens Bank, and the Mortgage will extend to any such renewal

or extension;

17.3 Citizens Bank may perform any promises or agreements of the Borrower under the Lease;

17.4 Nothing done by Citizens Bank under this section will make Citizens Bank a mortgagee in possession.

## **18. STRATA LOT MORTGAGE**

18.1 This section applies if the Land is or becomes a strata lot;

18.2 The Borrower will fulfill all of the Borrower's obligations as a Strata Lot owner under all applicable statutes, regulations, bylaws, rules and regulations of the Strata Corporation, and will pay all money owed by the Borrower to the Strata Corporation;

18.3 The Borrower assigns to Citizens Bank the right to vote for the Borrower under the bylaws of the Strata Corporation but Citizens Bank is not required to do so or to attend or vote at any meeting or to protect the Borrower's interest;

18.4 At the request of Citizens Bank, the Borrower will give Citizens Bank copies of all notices, financial statements and other documents given by the Strata Corporation to the Borrower;

18.5 The Borrower appoints Citizens Bank to be the Borrower's agent to inspect or obtain copies of any records or other documents of the Strata Corporation that the Borrower is entitled to inspect or obtain;

18.6 Citizens Bank may pay all money owed by the Borrower to the Strata Corporation, and add that amount to the Mortgage Money;

18.7 Nothing done by Citizens Bank under this section will make Citizens Bank a mortgagee in possession.

## **19. CURRENT OR RUNNING ACCOUNT MORTGAGE**

19.1 This section applies if the Mortgage secures a current or running account;

19.2 Citizens Bank may, on one or more occasions, advance and re-advance all or part of the Principal Amount and the Mortgage;



- (a) will be security for payment of the Principal Amount as advanced and re-advanced and for all other money payable to Citizens Bank under the Mortgage;
- (b) will not be considered to have been redeemed only because;
  - (i) the advances and re-advances made to the Borrower have been repaid; or
  - (ii) the accounts of the Borrower with Citizens Bank cease to be in debit; and
- (c) remains effective security for further advances and re-advances until the Borrower has received a discharge of the Mortgage.

**20. ENVIRONMENTAL MATTERS**

20.1 The Borrower promises and agrees that, to the best of the Borrower's knowledge, no condition exists with respect to the storage or discharge into the earth or its atmosphere of effluents, waste or other materials, solid, liquid or gaseous of the Borrower, nor has any waste been disposed of in any way or manner which would cause the Borrower to be liable for fines or penalties under any applicable laws or rules or to incur expenses of any sort to correct any such condition. The Borrower has not received any notice, nor to the best of the Borrower's knowledge is any such notice pending, from any governmental body claiming any material violation of any environmental, zoning, building, health or safety law or ordinance requiring any work, repairs, construction, alterations, noise reduction, clean-up or installation which has not been complied with by the Borrower.

20.2 The Borrower promises and agrees to immediately remediate any environmental contamination or potential contamination of the Land, and to comply with any requirement in this regard of any government.

**21. COVENANTOR'S PROMISES AND AGREEMENTS**

21.1 As Citizens Bank would not have agreed to lend all or part of the Principal Amount to the Borrower without the Covenantor's Promises and Agreements and in consideration of Citizens Bank advancing all or part of the Principal Amount to the Borrower at the request of the Covenantor, and for other good and valuable consideration, the Covenantor promises and agrees;

- (a) to pay all the Mortgage Money when due; and
- (b) to keep and perform all the Borrower's Promises and Agreements;

21.2 The Covenantor agrees that, with or without notice, the following shall in no way affect

any of the Covenantor's Promises and Agreements or the liability of the Covenantor to Citizens Bank;

- (a) a discharge of the Land or any part of the Land from the Mortgage;
- (b) any disregard or waiver of a Default;
- (c) any modification of the Mortgage, including a renewal of the Mortgage or a change in the Interest Rate;
- (d) the giving of extra time to the Borrower to;
  - (i) do something that the Borrower has agreed to do, including paying any of the Mortgage Money; or
  - (ii) cure a Default;
- (e) any other dealing between the Borrower and Citizens Bank that concerns the Mortgage or the Land;
- (f) the bankruptcy, insolvency, dissolution, death or incapacity of the Borrower; or
- (g) the sale of the Land;

21.3 The Covenantor agrees to be bound by any modification of the Mortgage, or similar agreement, made between Citizens Bank and the Borrower;

21.4 All the Covenantor's Promises and Agreements shall be binding on the Covenantor until all the Mortgage Money is fully paid to Citizens Bank;

21.5 The Covenantor promises and agrees that Citizens Bank may, at its sole option, enforce the Covenantor's Promises and Agreements, the Borrower's Promises and Agreements or any other security in the Mortgage in any order or combination Citizens Bank may choose;

21.6 The Covenantor is a primary debtor to the same extent as if the Covenantor has signed the Mortgage as a Borrower and is not merely a guarantor or a surety and the Covenantor's Promises and Agreements are joint and several with the Borrower's Promises and Agreements. This means that the Covenantor and the Borrower are both liable to perform all the Borrower's Promises and Agreements;

21.7 If more than one person signs the Mortgage Form as Covenantor, the promises and agreements of the Covenantor are both joint and several.

**22. CORPORATE BORROWER OR COVENANTOR**

**22.1** The Company will first obtain Citizens Bank's prior written approval of any change in its control or ownership by;

- (a) the transfer of any shares or voting rights by its members;
- (b) the issuance or allotment of its shares to any person not a shareholder on the date of execution of the Mortgage;
- (c) the appointment or election of directors other than those holding office on the date of execution of the Mortgage; or
- (d) reorganization or amalgamation;

**22.2** The Company promises and agrees that;

- (a) it is and shall during the term of the Mortgage be validly existing and in good standing under the laws of the jurisdiction of its incorporation and legally qualified to carry on business in the jurisdiction(s) in which it carries on business and in which the Land is situate;
- (b) it has all powers and authorizations necessary to enable it to execute the Mortgage;
- (c) it has duly executed and delivered the Mortgage, so that the Mortgage is in full force and effect and constitutes a legal, valid and binding obligation of the Company;
- (d) it has all such powers and authorizations necessary to enable it to own and operate or develop the Land or enable it to execute and deliver the Covenant;
- (e) there are no outstanding unpaid judgments or claims against the Company and no actions, suits or proceedings pending or threatened against or affecting the Company or the Land which would result in a material adverse change on its financial position or business affairs or its ability to meet its obligations under the Mortgage.

**23. GENERAL**

**23.1** Each Borrower is jointly and severally liable for all of the Borrower's Promises and Agreements as though each such Borrower had been the only Borrower to sign;

**23.2** Each Covenantor is jointly and severally liable for all of the Covenantor's Promises and

