

LAND REGISTRATION REFORM ACT

SET OF STANDARD CHARGE TERMS

Filed by: **ALTERNA SAVINGS AND CREDIT UNION LIMITED**

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The following set of standard charge terms (the “**Standard Charge Terms**”) shall be deemed to be included in every charge in which the set is referred to by its filing number, as provided in section 9 of the Act, regardless of whether the charge is a Paper Charge or an Electronic Charge.

1. DEFINITIONS

In this set of Standard Charge Terms:

- (a) “**Act**” means the *Land Registration Reform Act* (Ontario), as amended or replaced from time to time;
- (b) “**Buildings**” means all present and future buildings, structures, facilities, fixtures and improvements (including parking areas) located in, on and upon the lands described in the Charge including, without limitation, all alterations, additions, repairs and replacements thereto effected during the term of the Charge, and all fixed machinery, plant, equipment, apparatus, fittings, motors, furnaces, air-conditioners and other ventilation equipment, boilers, pressure vessels, oil and gas burners, pumps, tanks, water heaters, elevators, electric light fixtures, sprinkler systems, pipes, wiring, awnings, exterior and interior window coverings, wall-to-wall floor coverings, windows, doors, satellite dishes, appliances, building computers, telecommunication systems, security systems, central vacuum systems, plantings and all other growing things and fencing, save and except fixtures which are the property of tenants/subtenants pursuant to Space Leases;
- (c) “**Business Day**” means a day other than a Saturday, Sunday or statutory holiday in the province in which the Property is located;
- (d) “**Charge**” means:
 - (i) in the case of a Paper Charge, the Charge/Mortgage of Land, all schedules attached thereto, all amendments (if any) of such Charge/Mortgage of Land and schedules and this set of Standard Charge Terms; or
 - (ii) in the case of an Electronic Charge, the Chargor’s Acknowledgement and Direction, the Mortgage/Charge electronic form, all schedules attached to such form, all amendments (if any) of such Mortgage/Charge electronic form and schedules and this set of Standard Charge Terms;
- (e) “**Chargee**” means Alterna Savings and Credit Union Limited and its successors and assigns;
- (f) “**Chargor**” means each person/entity who signs the Charge, as chargor, and the heirs, administrators, executors, successors and assigns of the Chargor;
- (g) “**Chargor’s Acknowledgement and Direction**” means the Chargor’s acknowledgement to be bound by the Charge and its direction regarding electronic registration;
- (h) “**Corporation**” shall have the meaning ascribed thereto in Section 16 hereof;

- (i) “**Costs**” means all costs and expenses which, pursuant to the provisions of this set of Standard Charge Terms, the Chargor is required to pay to the Chargee;
- (j) “**Electronic Charge**” means a charge registered electronically pursuant to the Act;
- (k) “**Encumbrance**” means any mortgage, charge, security interest, lien, pledge, assignment by way of security, execution, attachment or other encumbrance or claim, whether implied by statute or otherwise, and “**Encumbrances**” means more than one Encumbrance;
- (l) “**Environmental Laws**” means all federal, provincial and municipal statutes, regulations, rules, ordinances, judgments, decisions, orders, approvals and policies (having the force of law) of all governmental authorities having jurisdiction with respect to environmental matters applicable to the ownership, use, maintenance and operation of the Property;
- (m) “**Event of Default**” shall have the meaning ascribed thereto in Section 17 hereof;
- (n) “**Guarantor**” means each person/entity who signs the Charge, as guarantor, and the heirs, administrators, executors, successors and assigns of the Guarantor;
- (o) “**Hazardous Substances**” means all contaminants, pollutants, substances and materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances and/or materials are or shall become prohibited, controlled or regulated pursuant to Environmental Laws and shall include “contaminants”, “dangerous substances”, “hazardous materials”, “hazardous substances”, “hazardous wastes”, “industrial wastes”, “liquid wastes”, “pollutants” and “toxic substances”, all as defined in, referred to and/or contemplated in Environmental Laws;
- (p) “**Indebtedness**” means the aggregate of (i) the Principal Amount, (ii) interest thereon at the Interest Rate, and, unless otherwise expressly provided, calculated semi-annually both before and after default, demand, maturity and judgment, (iii) Costs and all other amounts payable hereunder including, without limitation, the Interest Rate Differential Amount, (iv) interest at the Interest Rate on any interest, Costs and/or other amounts payable hereunder which were not paid when due, and unless otherwise expressly provided, calculated semi-annually both before and after default, demand, maturity and judgment;
- (q) “**Interest Rate**” means the interest rate specified in the Charge, or if more than one (1) interest rate is specified, then collectively, the weighted interest rates specified in the Charge (whether fixed, variable or a combination thereof, and weighted in accordance with the percentage of the Principal Amount);
- (r) “**Interest Rate Differential**” means the difference, on the date of prepayment, between the Interest Rate and the Chargee’s posted interest rate(s), for the remaining term of the Charge, provided that the Interest Rate is less than the posted interest rate(s);
- (s) “**Interest Rate Differential Amount**” means an amount calculated by multiplying the then outstanding Principal Amount by the Interest Rate Differential, then multiplying that result by a fraction the numerator of which is the then remaining months of the term of the Charge and the denominator of which is 12;
- (t) “**Lease**” means, in respect of any part of the Property in which the Chargor has a leasehold interest, the lease under which such leasehold interest is created and all replacements, renewals and amendments thereof;

- (u) **“Mortgage Loan Agreement”** means an agreement between the Chargor and the Chargee providing for the loan of the Principal Amount by the Chargee to the Chargor and secured by the Charge;
- (v) **“Paper Charge”** means a charge registered pursuant to the paper-based system of registration pursuant to the Act;
- (w) **“Permitted Encumbrance”** means any of the following:
 - (i) existing encroachments by buildings, structures, facilities, fixtures and/or improvements on adjacent lands over the lands described in the Charge or any part thereof or by buildings, structures, facilities, fixtures and/or improvements on the said lands over adjacent lands provided that all such encroachments do not, in the Chargee’s opinion, determined in its sole, absolute and unfettered discretion, in the aggregate, impair the development, management, ownership, operation, value or marketability of the Property or any part thereof;
 - (ii) liens for realty taxes, governmental charges, utility charges, levies and/or improvements (i) not at the time due, or (ii) the validity of which is being contested in good faith at the time, provided that the Chargor is not in default of any of its obligations pursuant to the Charge or pursuant to any additional security now or hereafter held by the Chargee for the payment and other obligations hereby secured, and provided also that the Chargor shall have posted with the Chargee adequate security therefor satisfactory to the Chargee and there is not, in the opinion of the Chargee, determined in its sole, absolute and unfettered discretion, any threat to the Property resulting from such contestation;
 - (iii) zoning, land use and building by-laws, codes, regulations and ordinances of all federal, provincial, municipal and other governmental bodies and regulatory authorities (including, without limitation, municipal by-laws and airport zoning regulations), Environmental Laws and other restrictions registered in the relevant land registry office as to use of or access to or from the Property or any part thereof, provided the same are complied with by the Chargor and the Property and all uses thereof comply therewith;
 - (iv) existing title defects or irregularities which are of a minor nature and do not, in the Chargee’s opinion, determined in its sole, absolute and unfettered discretion, in the aggregate, impair the development, management, ownership, operation, value or marketability of the Property or any part thereof;
 - (v) any subsisting reservations contained in the original grant from the Crown of the lands described in the Charge;
 - (vi) undetermined or inchoate liens or charges incidental to construction or current operation where (i) such construction or current operation is permitted pursuant to the Charge, (ii) a claim for which shall not have been registered, (iii) notice in writing in respect of which shall not have been given under the *Construction Lien Act* (Ontario), and (iv) in respect of which there has been compliance with the holdback and other requirements of the *Construction Lien Act*;
 - (vii) any encumbrance expressly permitted pursuant to the Charge or approved, in writing, by the Chargee, in its sole, absolute and unfettered discretion; and
 - (viii) any Space Lease (and any notice or caveat registered in respect thereof) which is either disclosed by the Chargor prior to the advance of the Principal Amount or is entered into after the advance of the Principal

Amount in accordance with the provisions hereof and for which no prior approval of the Chargee is required;

and “**Permitted Encumbrances**” means more than one Permitted Encumbrance;

- (x) “**Principal Amount**” means the aggregate principal amount outstanding from time to time pursuant to the Charge, which principal amount shall be in lawful money of Canada and may be advanced pursuant to the Mortgage Loan Agreement by way of one or more of line(s) of credit, loans (pursuant to promissory notes or other evidence of indebtedness) and conventional mortgage loan(s);
- (y) “**Property**” means the lands described in the Charge together with the Buildings;
- (z) “**Replacement Cost**” means the gross cost of repairing, replacing and/or reinstating any item of property with materials of like kind, quantity and quality on the same or a similar site, including municipal by-laws extension or amendment, if applicable, and without deduction for physical, accounting or other depreciation;
- (aa) “**Space Leases**” means all existing and future agreements to lease, leases, agreements to sublease, subleases, licences, occupancy agreements and all existing and future amendments, extensions, renewals, replacements and substitutions thereof or therefor pursuant to which exclusive occupancy of part or all of the Property was granted by the Chargor or its predecessor(s) in title to a tenant/subtenant/licencee; and
- (bb) “**Unit**” shall have the meaning ascribed thereto in Section 16 hereof.

2. CHARGE OF PROPERTY

As security for payment of the Indebtedness and the performance of the Chargor’s other obligations under the Charge, the Chargor:

- (a) if the Chargor has a freehold interest in the Property, charges, by way of fixed and specific mortgage and charge, the Property and the Chargor’s present and future interest in the Property in favour of the Chargee; or
- (b) if the Chargor has a leasehold interest in the Property, charges, by way of fixed and specific mortgage and charge, by way of sublease, the Lease and the Chargor’s present and future interest in the Property in favour of the Chargee, for and during the unexpired residue of the term of the Lease, save and except the last day thereof; provided that the said Charge shall not extend or apply to the last day of the term of the Lease, but the Chargor shall stand possessed of such last day and shall hold it in trust for the Chargee for the purposes of the Charge and shall assign and dispose of it as the Chargee shall, for such purposes, direct; upon any sale or sales of such leasehold interest or any part thereof, the Chargee, for the purpose of vesting the aforesaid one day residue of such Lease term in any purchaser thereof, shall be entitled by deed or writing, for and on behalf of the Chargor, to appoint such purchaser or any other person or persons as new trustee or trustees of the aforesaid residue of such Lease term in the place of the Chargor and to vest the said one day residue in the new trustee or trustees so appointed, free and discharged from all encumbrances.

The “Chargor’s interest in the Property”, as charged pursuant to this Section 2, shall include or be deemed to include the Chargor’s interest in:

- (i) all moneys received by the Chargor from any tenancy, subtenancy, use or occupation of any part of the Property (including all rents/subrents and other sums payable to the Chargor pursuant to the Space Leases);
- (ii) all benefits, advantages and powers to be derived by the Chargor from the Space Leases and all security and guarantees provided by

tenants/subtenants/guarantors in connection therewith, with full power and authority to demand, sue for, recover, receive and give receipts for all rents/subrents and all other moneys payable to the Chargor thereunder and otherwise to enforce the rights of the landlord/sublandlord thereunder in the name of the Chargor;

- (iii) the benefit of all guarantees of and indemnities with respect to the Space Leases and the performance of all obligations thereunder;
- (iv) the benefit of all insurance indemnities pertaining to the Space Leases including, without limitation, those covering rents/subrents and other income derived thereunder;
- (v) the benefit of all Property insurance policies including, without limitation, the Chargor's interest in all proceeds thereunder;
- (vi) all bank accounts maintained in respect of the Chargor and/or its interest in the Property and the moneys deposited therein from time to time; and
- (vii) all proceeds from the sale, encumbrancing and/or other disposition of the Chargor's interest in the Property.

3. INTEREST

- (a) The Chargor shall pay the Chargee interest at the Interest Rate, on the balance of the Indebtedness outstanding from time to time, calculated as provided in the Charge and not in advance and both before and after default, demand, maturity and judgment.
- (b) Notwithstanding the foregoing provision, if the amount of interest, calculated at the Interest Rate, together with any additional premium, fees and/or other moneys deemed to constitute interest and any additional amount of interest calculated at a rate(s) of interest (other than the Interest Rate) stipulated for, taken, reserved or extracted pursuant to the Charge, would otherwise contravene the provisions of one or both of the *Interest Act* (Canada) and the *Criminal Code* (Canada), such aggregate amount or deemed rate of interest shall be, and shall be deemed to be, reduced to such maximum amount or maximum rate of interest as would not contravene the *Interest Act* (Canada) or the *Criminal Code* (Canada).
- (c) In the event that default shall be made in payment of any sum to become due for interest at the time provided for payment in the Charge, compound interest shall be payable and the sum in arrears for interest, both before and after default, demand, maturity and judgment, shall bear interest at the Interest Rate. In the event that the interest and compound interest are not paid within the interest calculation period provided in the Charge then, at the time of default a rest shall be made, and compound interest at the Interest Rate shall be payable on the aggregate amount then due, both before and after default, demand, maturity and judgment, and so on from time to time, and all such interest and compound interest shall form a charge against the Property.
- (d) If an interest obligation for a specific month pursuant to the Charge exceeds the monthly payment provided for thereunder, then the unpaid interest component shall be added to the Principal Amount and interest shall accrue thereon in the ordinary course.
- (e) The parties confirm that the interest component of each monthly payment provided for under the Charge shall vary from time to time in the case of a variable interest rate pursuant to the Charge.

4. PAYMENT/PREPAYMENT

- (a) The Chargor shall pay the Indebtedness to the Chargee as and when provided in the Charge, at the address set out therein or as otherwise notified in writing by the

Chargee, without any deduction, withholding, set-off or abatement. Each payment made pursuant to the Charge shall be received by the Chargee (and the Chargee shall have received confirmation thereof) prior to 3:00 p.m. (in the time zone in which the Property is located), failing which such payment shall be deemed to be received on the next following Business Day. The Indebtedness or any part thereof shall be payable upon demand, to the extent only that the Charge does not otherwise expressly provide for payment thereof.

- (b) Except as otherwise expressly agreed in writing by the Chargee, payments and all other moneys received by the Chargee hereunder from time to time may be applied against any part of the Indebtedness determined by the Chargee in its sole, absolute and unfettered discretion, notwithstanding any contrary stipulation by the Chargor. The Chargee may from time to time revoke or alter any such application and reapply the amount in question on any other part of the Indebtedness determined by it. If the Chargee is notified, or in its sole, absolute and unfettered discretion believes, that the Chargor has disposed of, encumbered or otherwise created an encumbrance or other interest on or in all or any part of the Property or any Lease, then, and in each of such events, at the option of the Chargee, all moneys hereby secured, with accrued interest thereon and unearned interest thereon until maturity, shall forthwith become due and payable.
- (c) The provisions of the Charge shall in no way prejudice or otherwise affect any right the Chargee may have, independent of the Charge (whether pursuant to any mortgage, loan agreement, promissory note or other evidence of indebtedness or other instrument, any rule of law or otherwise whatsoever), to recover all or any part of the Indebtedness from the Chargor.
- (d) The records maintained by the Chargee as to the date and amount of any Indebtedness advanced to or otherwise incurred by the Chargor from time to time (including any interest accrued thereon), and as to the amount of any payment thereof, shall constitute prima facie evidence of such dates and amounts.
- (e) All notices from the Chargee pursuant to the Charge may be: (i) delivered personally to the Chargor or any employee or officer thereof; or (ii) mailed, postage prepaid, to the Chargor at the address of the Property or at the Chargor's most recent address appearing in the Chargee's records relating to the Charge; or (iii) left with a grown-up person on the Property, if occupied; or (iv) placing it on the Property, if unoccupied; or (v) publishing it once in a newspaper published in the county in which the Property is situate. Any such notice shall be conclusively deemed to have been given and received on the date of such delivery or the fifth day after such mailing. Any such notice shall be sufficient although not addressed to any person or persons by name or designation and notwithstanding that any person to be affected thereby may be unknown, unascertained or under disability.
- (f) The Chargor shall not be entitled to prepay part or all of the Indebtedness prior to the date the same is payable pursuant to the Charge, except as follows:
 - (i) if the Mortgage Loan Agreement expressly authorizes such prepayment without notice, bonus or penalty; or
 - (ii) if the Chargee approves such prepayment in its sole, absolute and unfettered discretion; or
 - (iii) if no Event of Default has occurred and is continuing and the prepayment relates only to part or all of a line of credit or a loan (by way of promissory note or other evidence of indebtedness) and not a conventional mortgage loan; or
 - (iv) if no Event of Default has occurred and is continuing and the Mortgage Loan Agreement expressly authorizes a prepayment each calendar year not exceeding 20% of the original Principal Amount by way of:

- (A) one or more prepayments; and/or
- (B) increasing the monthly blended payment of principal and interest to an amount not more than two (2) times such original monthly blended payment.

In the event that, for any reason whatsoever, the Chargor prepays more than the amounts permitted above, then the Chargor shall be obligated to pay:

- (v) in respect of the fixed interest rate overpayment (if any) of the Principal Amount, the greater of three (3) months interest on such overpayment and an Interest Rate Differential Amount calculated in respect of such overpayment; and
- (vi) in respect of the variable interest rate overpayment (if any) of the Principal Amount, an amount equal to three (3) months interest on such overpayment.

Any prepayment hereunder by increasing monthly blended payments of principal and interest shall not release or alter the Chargor's obligation to make the specific payments expressly set out in the Charge.

If the term of the Charge exceeds five (5) years, then at any time following the fifth (5th) anniversary thereof, the Chargor may prepay part or all of the Principal Amount without notice and with payment of three (3) months interest on such prepayment.

5. ADVANCES AND RE-ADVANCES UNDER THE CHARGE

If the Chargee decides, for any reason, not to advance any moneys or other accommodation, it shall not be required to do so whether or not the Charge has been signed and registered and whether or not any moneys or other accommodation have been previously advanced. The Chargee may, at its option, deduct from any advance any amount payable by the Chargor to the Chargee (including without limitation the interest that has accrued on previous advances), it being agreed that no such deduction shall affect the Chargor's liability for the full amount of such advance (without regard to the amount of such deduction). Whether or not any advances are made, the Chargor shall immediately pay the Chargee all of the Chargee's costs, including lawyers' fees (on a substantial indemnity basis), and expenses for investigating the title to the Property and for preparing, signing and registering the Charge and any other related instruments. The Chargor acknowledges and agrees that the payment of moneys by the Chargee in accordance with the written direction of the Chargor shall be deemed to be payment to, and receipt by, the Chargor.

Notwithstanding any other provision hereof, the Chargor may request, in writing, that the Chargee re-advance part or all of the then repaid Principal Amount pursuant to the Charge. The Chargee shall determine, in its sole, absolute and unfettered discretion, whether it will re-advance within ten (10) Business Days following receipt of such request, failing which it shall be deemed to have denied such request. The Chargee may charge a reasonable administrative fee in connection with any re-advance.

6. CONTINUING SECURITY

The Charge shall, whether or not it secures a current or running account, be general and continuing security to the Chargee for payment of the Indebtedness and performance of the Chargor's other obligations under the Charge (or any commitment letter, loan agreement, bill of exchange or promissory note or other instrument or document now or later entered into with or held by the Chargee in respect of the Indebtedness) notwithstanding any change or fluctuation in the amount, nature or form of the Indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Chargee representing all or part of the Indebtedness or in the names of the parties to such bills, notes and/or other obligations or that there is no Indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.

7. DELAYS, RELEASES, PARTIAL DISCHARGES, WAIVERS AND AMENDMENTS

The Chargee may release others from any liability to pay all or any part of the Indebtedness without releasing the Chargor. The Chargee may release its interest under the Charge in all or any part of the Property or any Lease (or any other collateral) whether or not the Chargee receives any value and shall be accountable to the Chargor only for moneys which the Chargee actually receives. If the Chargee releases its interest in part of the Property or any Lease, the remainder of the Property and each other Lease shall continue to secure the Indebtedness and the Chargor's obligations under the Charge will continue unchanged. The Chargee may grant extensions of time or other indulgences, grant renewals, take and give up securities, accept compositions and proposals, grant releases and discharges and otherwise deal with the Chargor, Guarantors and/or other persons (including, without limitation, any person to whom all or any part of the Property is transferred) and with any securities as the Chargee may see fit without affecting any of the Chargee's rights or remedies (herein or otherwise) or the Chargor's liability under the Charge (including without limitation the Chargor's liability to pay the Indebtedness). The Chargee may delay enforcing any of its rights under the Charge or any other document relating to the Indebtedness without losing or impairing those rights and may waive any breach of the Chargor's obligations under the Charge or any such document without affecting the Chargee's rights in respect of any other existing breach or any subsequent breach of the same or a different nature. No such waiver shall be effective unless made in writing and signed by an officer of the Chargee. No sale or other dealing with all or any part of the Property or any Lease, and no amendment of the Charge or any other security, agreement or other instrument or relating to the Indebtedness, will in any way affect the obligation of the Chargor or any other person to pay the Indebtedness.

8. REPRESENTATIONS AND WARRANTIES

The Chargor represents and warrants to the Chargee that:

- (a) only if the Chargor has a freehold interest in the Property:
 - (i) the Chargor is the sole registered owner of the Property with good and marketable title thereto, in fee simple, free from all Encumbrances other than Permitted Encumbrances;
 - (ii) if the Chargor is not also the sole beneficial owner of the Property, then the beneficial owner(s) are/is those/that disclosed by the Chargor, in writing, to the Chargee prior to the execution and delivery of the Charge, and such beneficial owner(s) hold good and marketable title thereto, in fee simple, free from all Encumbrances other than Permitted Encumbrances;
 - (iii) the Chargor has the right, capacity and authority to execute and deliver the Charge and charge the Property and the Chargor's interest therein in favour of the Chargee in accordance with the terms hereof; and
 - (iv) the Chargor has not done, omitted or permitted anything whereby the Property and/or a Space Lease is/are or will likely become subject to any Encumbrance other than a Permitted Encumbrance;
- (b) only if the Chargor has a leasehold interest in the Property pursuant to the Lease:
 - (i) the Chargor is the sole and lawful tenant of the Property pursuant to the Lease with good and marketable leasehold title thereto, free from all Encumbrances other than Permitted Encumbrances;
 - (ii) the landlord pursuant to the Lease is the sole registered owner of the Property with good and marketable title thereto, in fee simple, free from all Encumbrances other than Permitted Encumbrances and other than freehold mortgages which are the subject-matter of a non-disturbance agreement(s) between the freehold mortgagee(s), the said landlord, the Chargor and the Chargee;

- (iii) if the Chargor is not also the sole beneficial owner of the leasehold interest in the Property, then the beneficial owner(s) are/is those/those that disclosed by the Chargor, in writing, to the Chargee prior to the execution and delivery of the Charge, and such beneficial owner(s) hold good and marketable leasehold title thereto, free from all Encumbrances other than Permitted Encumbrances;
 - (iv) the Chargor has the right, capacity and authority to execute and deliver the Charge and charge its leasehold interest in the Property in favour of the Chargee in accordance with the terms hereof;
 - (v) the Chargor has not done, omitted or permitted anything whereby its leasehold interest in the Property, the Lease and/or a Space Lease is/are or will likely become subject to any Encumbrance other than a Permitted Encumbrance;
 - (vi) the Lease constitutes a good, valid and subsisting lease enforceable against the parties thereto in accordance with its terms and a full and complete copy of the Lease has been delivered to the Chargee;
 - (vii) all rents and other moneys payable under the Lease have been paid and the Chargor has not defaulted in any of its other obligations thereunder; and
 - (viii) the Chargor has obtained the written consent of the landlord pursuant to the Lease or the Chargor has the right without such written consent, to charge and sublet the Chargor's leasehold interest in the Property to the Chargee in accordance with the Charge;
- (c) except as provided by the Chargor prior to any advance hereunder, no consents or approvals are required pursuant to the Permitted Encumbrances in connection with the execution, delivery, registration and/or enforcement of the Mortgage Loan Agreement, the Charge and/or related security;
 - (d) the Buildings have been constructed in a good and workmanlike manner and in accordance with plans and specifications approved by the relevant municipality;
 - (e) the Property complies with all laws, statutes, regulations, ordinances, orders, directives and other instruments having the force of law including, without limitation, all applicable building, zoning, planning, development, construction, construction lien, fire code, occupation, handicapped persons accommodation and land use laws and Environmental Laws;
 - (f) the Chargor has not received notice of any work orders, deficiency notices and/or notices of violation pertaining to the Property or any part thereof which have not been fully complied with;
 - (g) there is no legal action or judicial or administrative proceeding instituted, pending or threatened against the Chargor, the Property and/or the Chargor's interest in the Property, which has not been disclosed in writing to the Chargee prior to any advance hereunder or provided for as required by generally accepted accounting principles in the most recent financial statements of the Chargor delivered to the Chargee;
 - (h) the Chargor has not received notice of and is not otherwise aware of any claim by a third party against the Chargor, the Property and/or the Chargor's interest in the Property, except as disclosed to the Chargee prior to the date hereof;
 - (i) all materials, agreements, documents, plans, drawings and written information relating to the Property and/or the Chargor and delivered to the Chargee up to and including the date hereof are, to the best of the Chargor's knowledge, information and belief, after diligent inquiry, complete and accurate in all respects;

- (j) all material information pertaining to the market value and operation of the Property and the Chargor's financial condition has been fully disclosed in writing to the Chargee;
- (k) the Chargor has not committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Property or any part thereof is or shall be in any way encumbered, except pursuant to Permitted Encumbrances;
- (l) except as authorized to the contrary by the Chargee, in its sole, absolute and unfettered discretion, the Principal Amount is not intended to be utilized for the purposes of securing the financing of any Property improvements, nor for the purposes of repaying any financing which was utilized or intended to be utilized for the financing of any Property improvements and accordingly it is not the Chargor's intention for the security provided pursuant to the Charge to be a "Building Mortgage", as contemplated in Subsection 78(2) of the *Construction Lien Act*, or a charge taken out to repay such a "Building Mortgage";
- (m) except as disclosed to the contrary in a Phase I environmental report (which shall be deemed to include related Phase II and Phase III environmental reports, if applicable) delivered to the Chargee prior to the advance hereunder:
 - (i) the Property has never been used as a landfill site or to store Hazardous Substances either above or below ground, in storage tanks or otherwise;
 - (ii) the Buildings do not contain and have never contained urea formaldehyde foam insulation, polychlorinated biphenyls (PCB's) and/or asbestos, in any form;
 - (iii) no notices of violation of any Environmental Laws have ever been received by the Chargor in respect of the Property;
 - (iv) no Hazardous Substances have ever been used in the construction of the improvements on the Property, except in compliance with Environmental Laws;
 - (v) the Property and its existing and prior uses comply and have at all times complied in all respects with all Environmental Laws and any Hazardous Substances used in connection with the business (both the Chargor's business and, to the Chargor's knowledge, information and belief, after diligent inquiry, a Space Lease tenants'/subtenant's business) conducted on the Property have at all times been received, handled, used, stored, treated, shipped and disposed of in strict compliance with Environmental Laws;
 - (vi) the Chargor has complied with all reporting and inspection requirements pursuant to Environmental Laws in respect of the Property and the operations and business conducted thereon;
 - (vii) no Hazardous Substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the Property as a result of the conduct of business thereon;
 - (viii) all pollution control equipment forming part of the Property is effective in meeting current applicable emission limits and effluent and pre-treatment standards;
 - (ix) all operating records, files and reports, including environmental monitoring and reporting records, have been maintained in accordance with all applicable Environmental Laws; and

- (x) the Chargor has obtained all licenses, permits and other environmental approvals and authorizations necessary pursuant to Environmental Laws for the conduct of the operations and business on the Property; and
- (n) each tenant under an existing Space Lease as of the date hereof is in possession of and occupying its premises in the Property pursuant to an arm's length, executed, fully net lease/sublease or offer to lease/sublease, unless otherwise approved by the Chargee, is paying rent/subrent as required under its Space Lease (without any future rent-free/subrent-free periods, unless otherwise approved by the Chargee), is not claiming any deduction or set-off from the rent/subrent payable, has not prepaid more than two (2) months of rent/subrent, is operating its business from and has accepted the state and condition of its leased/subleased space.

9. COVENANTS

The Chargor covenants with the Chargee as follows:

- (a) that the representations and warranties set out in Subsections 8(a), (b), (c), (d), (e), (j), (k) and (l) and Paragraphs 8(m)(i), (ii), (iv), (v), (vi), (vii), (viii), (ix) and (x) hereof shall be true and correct; such representations and warranties shall be deemed to be repeated on each day until such repayment;
- (b) that it shall pay or cause to be paid to the Chargee the Principal Amount together with interest thereon and all other sums payable to the Chargee pursuant to the Charge on the days, at the times and in the manner provided for in the Charge;
- (c) that it shall pay or cause to be paid, as and when the same shall become due and payable, all realty taxes, governmental charges, utility charges and/or levies which are or may become charges or claims against the Property or any part thereof; the Chargor hereby authorizes the Chargee to obtain all information pertaining to the Property and the amounts owing in respect thereof from all relevant governmental authorities; the Chargor shall provide the Chargee with evidence of payment of each realty tax instalment within ninety (90) days following such payment;
- (d) that it shall pay or cause to be paid, within ten (10) days of receipt of a request therefor from the Chargee, all costs and expenses incurred by the Chargee or by its agents, officers and/or employees in connection with the inspection, protection, preservation, repair, completion, insuring, taking possession, management, sale and/or lease of the Property, in connection with the collection of part or all of the Indebtedness and/or the enforcement of any or all of the Chargee's rights pursuant to the Charge and/or in connection with preserving the priority of the Charge; the said costs and expenses shall include legal fees and disbursements on a substantial indemnity basis, all amounts paid by the Chargee to discharge any encumbrance (including, without limitation, prior mortgages, realty tax liens and construction liens) having priority over the Charge and damages incurred by the Chargee from the Chargor's breach of its representations and/or covenants contained in the Mortgage Loan Agreement, the Charge and/or related security/documentation; in the event that the Chargee shall pay any amount contemplated above to a third party then the Chargor shall be subrogated to all of the rights, equities and securities of such third party, without the necessity of a formal assignment, and the Chargee is hereby authorized to retain any discharge thereof, without registration, until it is reimbursed by the Chargor for such amount, with interest;
- (e) that it shall perform all of its obligations under the Permitted Encumbrances and the Space Leases;
- (f) that it shall diligently and reasonably defend, negotiate and/or settle all claims initiated by a third party against the Chargor and/or the Property and diligently and reasonably prosecute all claims initiated by the Chargor;

- (g) that it shall provide sufficient parking within the Property to comply with all laws regulating parking together with such additional parking spaces, if any, as shall be required under Space Leases and/or other agreements to which the Chargor shall be bound;
- (h) that the Property shall be used only for those purposes disclosed to the Chargee, in writing, prior to any advance pursuant to the Charge;
- (i) that, except as otherwise permitted by the Chargee (in its sole, absolute and unfettered discretion), it shall obtain and maintain the following insurance:
 - (i) insurance in a stated amount equal to 100% of the full Replacement Cost of the Property from time to time, against loss or damage by fire, explosion, collapse, impact by aircraft or vehicles, lightning, tornado, riot, vandalism or malicious acts, smoke, leakage from fire protective equipment, windstorm, earthquake, flood, hail, hostile fire and all other perils and risks now or hereafter from time to time embraced by or defined in a standard commercial (or residential, if applicable) "all risks" insurance policy, without deduction for foundations, footings or other property below ground (for greater certainty, such insurance shall insure the foundation, footings and all other property below ground); the proceeds payable under such insurance shall be payable to the Chargee as mortgage creditor pursuant to the terms of a standard mortgage clause approved by the Insurance Bureau of Canada;
 - (ii) for each commercial property and, if required by the Chargee, for each residential property, comprehensive broad form boiler and machinery insurance with coverage on all electrical, mechanical and compression equipment, as well as all pressure vessels, in an amount which is not less than 100% of the full Replacement Cost of the Property for each accident; such policy shall contain a rider with the standard mortgage clause approved by the Canadian Boiler and Machinery Underwriters' Association, with proceeds payable to the Chargee as mortgage creditor;
 - (iii) comprehensive general liability insurance with coverage against claims for personal injury, death and/or property damage suffered by others upon or in or about the Property and the adjoining streets and passageways, in such amounts as shall be determined by the Chargee from time to time, acting reasonably;
 - (iv) such further and other insurance as the Chargee shall determine from time to time, acting reasonably;
 - (v) the insurance policies described above shall be issued by insurers approved by the Chargee, acting reasonably, shall not contain any co-insurance clause and shall not require reconstruction on the same or an adjacent site; and
 - (vi) each of the said policies shall obligate the insurer to provide the Chargee with not less than thirty (30) days' prior written notice of any cancellation, material adverse change and/or non-renewal;
- (j) that it shall pay or cause to be paid, as and when the same shall become due and payable, all premiums for and related costs of the insurance coverage contemplated hereunder and in the event that, for any reason whatsoever, the Chargor shall fail to maintain or it becomes likely that the Chargor will fail to maintain part or all of the said insurance coverage then the Chargee may forthwith arrange replacement coverage and all costs incurred in connection therewith shall form part of the Principal Amount, bear interest at the Interest Rate and be payable immediately;

- (k) that it shall provide to the Chargee, upon request, certificates of insurance in respect of all coverage maintained in respect of the Property, access during business hours to the original underlying insurance policies (which policies shall be maintained at the Chargor's address set out in the Charge) and authorization to communicate (without obligation to do so) directly with and obtain copies from all relevant insurers, brokers, agents, underwriters, adjusters and/or other persons/entities in respect of the said insurance coverage;
- (l) that it shall provide written notice of all damage sustained at the Property forthwith following the occurrence thereof and, at the Chargee's request and at the Chargor's expense, shall do all acts necessary to enable the Chargee to obtain payment of the insurance proceeds, which proceeds may, if an Event of Default shall then be occurring, and at the Chargee's option, be applied, in whole or in part, to payment of the Indebtedness, whether or not then due, or to the repair of the relevant damage, subject to any reasonable release conditions imposed by the Chargee (the Chargor hereby irrevocably appoints the Chargee as the Chargor's attorney for purposes of endorsing any insurance proceeds cheques issued by an insurer);
- (m) that it shall use reasonable commercial efforts to cause a Space Lease tenant/subtenant to have any default on the part of such tenant/subtenant pursuant to its Space Lease cured as promptly as reasonably possible;
- (n) that it shall not commit or permit waste to be committed or suffered on the Property nor do or allow anything to be done which would result in the material impairment or diminution of the market value of the Property;
- (o) that it shall repair and maintain the Property in good order and repair and manage the Property, all in accordance with the standards of a prudent owner of similar real property, with a view to preserving and protecting the Property and the revenues and profits therefrom;
- (p) that it shall not undertake any material change, expansion, alteration or demolition of the Buildings or access thereto without the prior written approval of the Chargee, which approval shall not be unreasonably withheld; and that, in connection with any such material change, expansion, alteration or demolition of the Buildings and all other supplies of materials and services to the Property, it shall construct substantially in accordance with any plans and specifications approved by the Chargee and shall otherwise comply in all respects with the provisions of the *Construction Lien Act* and shall vacate or discharge forthwith any construction, repairer's or other lien filed against all or any part of the Property; upon request, the Chargor shall provide the Chargee with reasonable evidence of its compliance with the *Construction Lien Act*;
- (q) that it shall not take/initiate any step, action or proceeding or make any claim which denies, impairs, delays or challenges the binding nature, validity and/or enforceability of the Charge and/or any security collateral thereto;
- (r) to permit the Chargee and its employees and agents from time to time, upon reasonable notice, reasonable access to the Property for inspection, testing and/or purposes otherwise authorized hereunder (subject to the rights of tenants/subtenants pursuant to Space Leases), to the Chargor's records and books of account (including evidence of payment of realty taxes, insurance premiums and other obligations) maintained in respect of the Property and to all Property plans, specifications and drawings (including as-built plans, working drawings, other specifications and architectural, structural, electrical and mechanical drawings) in the Chargor's possession or within its control and to make copies of any or all of the above;
- (s) to provide the Chargee with copies of all material amendments of all materials, agreements, documents, plans, drawings and written information delivered to the Chargee pursuant to the Charge, forthwith following receipt of same;

- (t) that the Property shall be managed by the Chargor, by an affiliate of the Chargor or by a professional arm's length manager approved by the Chargee, acting reasonably; the Chargor shall not entrust the management of the Property to any person/entity other than those mentioned above nor shall it dismiss a property manager without the prior written consent of the Chargee, which consent shall not be unreasonably withheld; provided that no management fee in excess of market rates shall be payable to the manager of the Property, except as shall be reasonable at the time of negotiation; provided further that any non-arm's length property management agreement shall permit termination upon thirty (30) days prior written notice (at any time and notwithstanding that the Chargor shall not then be in default of its obligations pursuant to the Mortgage Loan Agreement, the Charge and/or related security/documentation held by the Chargee and notwithstanding that the property manager shall not then be in default of its obligations pursuant to the property management agreement);
- (u) that except as otherwise expressly permitted pursuant to the Charge, it shall not, without the prior written approval of the Chargee (which approval may be withheld in the Chargee's sole, absolute and unfettered discretion):
- (i) sell, assign, convey, transfer or otherwise dispose of the Property or any part thereof or interest therein;
 - (ii) permit, allow or suffer the Property or any part thereof or interest therein to be pledged, charged or otherwise encumbered in favour of any other creditor, except for Permitted Encumbrances; or
 - (iii) if the Chargor has a leasehold interest in the Property, amend, replace, renew, extend and/or restate the Lease prior to the end of the original term thereof;

notwithstanding any other provision contained in the Charge, the Chargor's failure to comply with one or more of the above shall constitute an Event of Default for which all rectification periods therefor shall be deemed to have passed/expired and the Chargee may, in its sole, absolute and unfettered discretion, demand immediate repayment of the loan secured by the Charge, in full, together with all accrued interest, all other amounts secured by the Charge, an amount equal to legal and administrative fees incurred and, in respect of the fixed interest rate component of the Principal Amount (if any), an amount equal to the greater of three (3) months interest thereon and an Interest Rate Differential Amount and, in respect of the variable interest rate component of the Principal Amount (if any), three (3) months interest thereon; each approved transferee hereunder shall provide not less than 10 days prior written notice of the closing of the relevant transaction and in connection therewith shall execute and deliver an assumption agreement by which it shall agree to be bound by the Mortgage Loan Agreement, the Charge and all related security/agreements;

- (v) to refrain from making or permitting to be made any changes to its capital structure and/or, except in conjunction with a transfer otherwise expressly permitted hereunder, in the holding thereof, without the prior written consent of the Chargee (which consent may be withheld in the Chargee's sole, absolute and unfettered discretion);
- (w) to refrain from amending its constating documents during the term of the loan secured by the Charge without the Chargee's prior written consent, which consent may be withheld in the Chargee's sole, absolute and unfettered discretion;
- (x) that, from and after the occurrence of an Event of Default but following all rectification periods expressly permitted pursuant to the Charge, the Chargee shall be lawfully entitled to peaceably and quietly enter into, have, hold, use, occupy, possess and enjoy the Chargor's interest in the Property without hindrance, interruption or denial by the Chargor or any other person, subject only to the Space Leases and the Permitted Encumbrances;

- (y) if the Chargor has a leasehold interest in the Property, to refrain from joining or combining or permitting to be joined or combined the said leasehold interest and the underlying freehold lands without the Chargee's prior written consent (which consent may be withheld in the Chargee's sole, absolute and unfettered discretion), provided that no consent shall be required if the Charge shall constitute the first-ranking charge against the combined property interest; and
- (z) that it shall, not later than ninety (90) days following its fiscal year-end, deliver:
 - (i) annual financial statements in respect of the Chargor's interest in the Property, prepared and verified by an independent firm of chartered accountants, in accordance with generally accepted accounting principles, consistent with prior years, and including all appropriate documents, explanatory notes and additional information;
 - (ii) annual financial statements in respect of the Chargor, prepared and verified by an independent firm of chartered accountants, in accordance with generally accepted accounting principles, consistent with prior years, and including all appropriate documents, explanatory notes and additional information; and
 - (iii) such additional financial information then still undisclosed pertaining to the Chargor's interest in the Property and/or the Chargor;
- (aa) to maintain proper records and books of account with respect to the revenues, expenses, assets and liabilities arising from or comprising the Property and to provide, upon request from the Chargee but not more frequently than once annually, a certificate of an officer of the Chargor certifying the contents of the Property financial statements (including a balance sheet setting out assets and liabilities and an income statement setting out revenues and expenses) together with any other Property information requested by the Chargee, acting reasonably;
- (bb) that it shall not, without the Chargee's prior written consent, which consent shall not be unreasonably withheld, enter into, amend, terminate or accept the surrender of any Space Lease:
 - (i) for premises in excess of 7% of the aggregate leaseable/subleaseable area of the Property;
 - (ii) which provides for a rental/subrental rate which is less than 85% of prevailing market rental/subrental rates; and/or
 - (iii) which is materially in a form other than the standard form offer to lease/offer to sublease/lease/sublease used in connection with the Property;
- (cc) that it shall deliver to the Chargee, within five (5) Business Days following delivery of the Chargee's written request therefor, a certificate indicating whether or not the Space Leases are then in good standing and, if not, then the particulars of any default;
- (dd) to the extent that the *Ontario New Home Warranties Plan Act* applies to the Property, to comply with the obligations thereunder and to indemnify and save harmless the Chargee from and against all liability and costs incurred by its failure to do so;
- (ee) to pay all reasonable administrative fees imposed by the Chargee in connection with arranging, monitoring (including a fee for NSF payments), enforcing, extending, renewing, replacing (security), assigning, discharging and/or amending the Charge and/or all related security; and
- (ff) that it shall from time to time (whether during or following the occurrence of an Event of Default) execute/do all such further assurances, agreements and acts

(including instruments supplemental or ancillary to the Charge) as in the opinion of the Chargee, acting reasonably, are necessary for validly giving to the Chargee the mortgage and charge intended to be created pursuant to the Charge on the terms contained therein and otherwise fulfilling its obligations thereunder, and all such assurances shall be in such form as shall be reasonably required for such purpose.

10. GUARANTEE

Each party named in the Charge as Guarantor hereby agrees with the Chargee as follows:

- (a) for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Guarantor hereby absolutely and unconditionally guarantees to the Chargee the due and punctual payment of the Principal Amount, interest and all other moneys owing pursuant to the Charge and the observance and performance of all other covenants, agreements, terms and conditions of the Charge herein contained, and the Guarantor covenants with the Chargee that, if the Chargor shall at any time default in the due and punctual payment of any Principal Amount, interest and/or other moneys owing hereunder, then the Guarantor shall be obligated to pay all such moneys to the Chargee without any demand;
- (b) although as between the Guarantor and the Chargor, the Guarantor is only surety for the payment by the Chargor of the moneys hereby guaranteed, as between the Guarantor and the Chargee, the Guarantor shall be considered as primarily liable therefor and it is hereby further expressly declared that no release or releases of any portion or portions of the Property, no indulgence shown by the Chargee in respect of any default by the Chargor or any successor thereof which may arise under the Charge, no extension or extensions granted by the Chargee to the Chargor or any successor thereof for payment of the moneys hereby secured or for the doing, observing or performing of any covenant, agreement, term or condition herein contained to be done, observed or performed by the Chargor or any successor thereof, no variation in or departure from the provisions of the Charge, no release of the Chargor or any other thing whatsoever whereby the Guarantor as surety only would or might have been released, shall in any way modify, alter, vary or in any way prejudice the Chargee or affect the liability of the Guarantor in any way under this guarantee, which shall continue and be binding on the Guarantor, and as well after as before maturity of the Charge and both before and after default and judgment, until the said moneys are fully paid and satisfied;
- (c) any payment by the Guarantor of any moneys under this guarantee shall not in any event be taken to affect the liability of the Chargor for payment thereof but such liability shall remain unimpaired and enforceable by the Guarantor against the Chargor and the Guarantor shall, to the extent of any such payments made by it, in addition to all other remedies, be subrogated as against the Chargor to all the rights, privileges and powers to which the Chargee was entitled prior to payment by the Guarantor; provided, nevertheless, that the Guarantor shall not be entitled in any event to rank for payment against the Property in competition with the Chargee and shall not, unless and until the whole of the Principal Amount, interest and other moneys owing on the security of the Charge shall have been paid, be entitled to any rights or remedies whatsoever in subrogation to the Chargee;
- (d) all covenants, liabilities and obligations entered into or imposed hereunder upon the Guarantor shall be equally binding upon its successors; where more than one party is named as a Guarantor all such covenants, liabilities and obligations shall be joint and several; and
- (e) the Chargee may vary any agreement or arrangement with or release the Guarantor, or any one or more of the Guarantors if more than one party is named as Guarantor, and grant extensions of time or otherwise deal with the Guarantor

and its successors without any consent on the part of the Chargor or any other Guarantor or any successor thereof.

11. TAXES

Upon request by the Chargee, the Chargor shall each month pay to the Chargee one-twelfth of the estimated taxes, rates and assessments due and payable in or with respect to the succeeding twelve months. The Chargee shall not assume any obligation for the payment of such taxes, rates and assessments, or for any late payment, non-payment or arrears thereof or any interest or penalties thereon, except as to the application thereto of moneys actually received from the Chargor for that purpose and not otherwise applied by the Chargee as permitted by the provisions hereof. Unless otherwise agreed in writing by the Chargee or except for any interest which may be allowed by the Chargee in accordance with its policy from time to time, the Chargee shall not be liable for interest on any moneys paid to it pursuant to this Section 11 and may hold such moneys pending payment or application as provided herein. Any moneys which are received by the Chargee on account of taxes, rates and assessments for any particular year but which are not applied thereto may be held by the Chargee on account thereof for another year. If an Event of Default shall occur and be continuing, the Chargee may apply any moneys received by it pursuant to this Section 11 towards payment of all or any part of the Indebtedness whether or not then due.

12. IMPROVEMENTS, DEMOLITION

Subject to Subsection 9(p) hereof, the Chargee may make advances to the Chargor under the Charge based on progress in completing an improvement or upon its completion or, in the case of a building, its occupation or sale or otherwise. The Chargor shall construct and complete the improvement in a good and workmanlike manner in accordance with plans and specifications approved by the Chargee, all applicable governmental building standards and generally accepted standards of construction in the locality of the Property as quickly as possible and make all payments for the improvement (less the amount of any holdbacks required to be maintained under the *Construction Lien Act* which holdbacks shall be released after the period during which a claimant may file a lien under such act shall have expired) that it is required to make, and shall provide the Chargee with proof of such payments and holdbacks on request.

13. LEASES AND RENTS

- (a) The Chargor shall, on request from time to time, execute a formal assignment of any Space Lease in a form acceptable to the Chargee and, if requested by the Chargee, suitable for registration. The Chargor agrees to give the Chargee executed copies of all Space Leases promptly after their execution and to perform all of the Chargor's obligations thereunder. No such assignment or any act of the Chargee pursuant thereto shall operate to delay, hinder or prejudice any of the Chargee's rights or remedies under the Charge. The Chargor shall also, from time to time, execute and deliver to the Chargee such notices to lessees or others and such other documents as the Chargee may request for the purpose of protecting or enforcing its rights in respect of such assignments.
- (b) The Chargee shall not be responsible for the collection of any rents assigned to it or the performance of the terms and conditions of any Space Lease. The Chargee shall be responsible to account only for rents actually received, less reasonable collection charges, and may apply such rents to the repayment of the Indebtedness, whether or not due. The Chargee shall not by reason of any such collection or any assignment referred to in this Subsection 13(b) be deemed a mortgagee or chargee in possession.
- (c) For the purpose of the Charge, every action or omission by the lessee under any Space Lease shall be conclusively deemed to be the action or omission of the Chargor.

14. EFFECT OF SUBDIVISION

If the Property is subdivided, each part of the Property shall continue to secure payment of the total amount of the Indebtedness and no person shall have any right to require the Indebtedness to be apportioned upon or in respect of any part of the Property.

15. CONSTRUCTION AND OTHER LIENS

- (a) Unless the Chargee otherwise consents, the Chargor shall not create or permit to exist any lien on or against all or any part of the Property, any Lease or any Space Leases or rents referred to in Section 2 hereof, other than liens (i) for taxes which are not due or (ii) incidental to construction, repairs or current operations which have not been registered against the Property, which relate to obligations which are not due and written notice of which has not been given to the Chargee or the Chargor. The Chargor shall pay, when due, all amounts payable under, in respect of, or secured by any lien or other claim on, against or relating to all or any part of the Property or any Lease and shall comply with all obligations contained in the document or statute under which any such lien or other claim arose. The Chargee may, but is not obliged to, pay any such amount and/or cure any default under any such document or statute and the Chargor shall immediately pay the Chargee all amounts, costs and expenses paid or incurred in so doing. To the extent the Chargee pays any such amount, it shall be entitled to all equities and securities of the person or persons so paid and it may retain any discharge or cessation of charge unregistered until paid. The Chargor shall immediately notify the Chargee in writing of the creation or coming into existence of any lien on or against all or any part of the Property, any Lease or any Space Lease or the rents payable thereunder and of the terms and conditions thereof.
- (b) The Chargee may from time to time obtain an order vacating any construction lien registered against all or any part of the Property and, if the Chargee considers it necessary, provide financial guarantees or other security to facilitate the obtaining of any such order. The Chargor shall immediately pay the Chargee all costs and expenses paid or incurred by the Chargee to obtain such order or to provide such guarantees or security.

16. CONDOMINIUM

If the Charge is of land within a condominium registered pursuant to the *Condominium Act* (Ontario) then this Section 16 shall apply. The Chargor shall comply with the *Condominium Act*, and with the declaration, by-laws and rules of the condominium corporation (the “**Corporation**”) relating to the Chargor’s unit (the “**Unit**”) and provide the Chargee with proof of compliance from time to time as the Chargee may request. The Chargor shall pay the common expenses for the Unit to the Corporation on the due dates. If the Chargee shall decide to collect the Chargor’s contribution towards the common expenses from the Chargor, the Chargor shall pay the same to the Chargee upon being so notified. The Chargee is authorized to accept a statement which appears to be issued by the Corporation as conclusive evidence for the purpose of establishing the amounts of the common expenses and the dates those amounts are due. The Chargor, upon notice from the Chargee, shall forward to the Chargee any notices, assessments, by-laws, rules and financial statements of the Corporation that the Chargor receives or is entitled to receive from the Corporation. The Chargor shall maintain all improvements made to the Unit and repair them after damage. In addition to the insurance which the Corporation must obtain, the Chargor shall insure the Unit against destruction or damage by fire and other perils usually covered in fire insurance policies and against such other perils as the Chargee requires for its full replacement cost (the maximum amount for which it can be insured). The company and the terms of the policy shall be satisfactory to the Chargee, acting reasonably. The Chargor irrevocably authorizes the Chargee to exercise the Chargor’s rights under the *Condominium Act* to vote, consent and dissent.

17. EVENTS OF DEFAULT

In the Charge “Event of Default” means, following notice thereof from the Chargee to the Chargor, each and every one of the following events:

- (a) if the Chargor shall fail to pay when due all or any part of the Indebtedness and such failure shall continue for a period of two (2) Business Days;
- (b) if the Chargor shall default in the payment of realty taxes when due, in the payment to the Chargee of any amount payable to the Chargee in respect of realty taxes pursuant to the Charge (save and except when the validity thereof is, in good faith, being contested by the Chargor and it has given security for payment thereof in full) and/or in the payment of any other amount due pursuant to the Charge and any such default shall continue for a period of ten (10) days after such payment shall become due or for such shorter period as is necessary to avoid the possibility of forfeiture or sale;
- (c) if the Chargor shall fail to observe or perform its insurance obligations pursuant to the Charge and, following delivery of written notice to the Chargor by the Chargee specifying in reasonable detail such failure and requiring the Chargor to rectify same, the Chargor shall fail to rectify such failure within a period of ten (10) days or such shorter period as is necessary to avoid unreasonable and inadequate insurance coverage;
- (d) if proceedings shall be initiated to cause the Chargor to become insolvent or bankrupt or if the Chargor shall otherwise become insolvent or bankrupt or if a trustee in bankruptcy shall be appointed in respect of the Chargor or if the Chargor or any other person/entity shall do any act to facilitate the reorganization, compromise, arrangement, insolvency, debt-relief or dissolution process in respect of the Chargor or if the Chargor shall make a general assignment for the benefit of creditors or shall go into liquidation, either voluntarily or under an order of a court of competent jurisdiction, or if the Chargor otherwise acknowledges its insolvency or if a receiver, receiver and manager or other similar official shall be appointed in respect of the Chargor and/or the Property, unless, in the case of an involuntary appointment, the initiation of proceedings by a person/entity other than the Chargor, an order or an act to facilitate one or more of the processes indicated by a person/entity other than the Chargor, the Chargor is contesting such appointment, order or act in good faith, and such appointment, order or act is quashed or set aside within a period of ten (10) days;
- (e) if the Property shall at any time during the term hereof fail to comply with all applicable building, zoning and other municipal by-laws and all relevant statutes and regulations; provided that if, but only if, such default is capable of being remedied and provided also that such default is not caused by the non-payment of money, such default shall not constitute an Event of Default if such default has been remedied within ten (10) days after written notice thereof has been given to the Chargor; provided further that if:
 - (i) such default does not relate to an obligation the date for performance of which was specified in advance under the Charge or in any additional security held by the Chargee;
 - (ii) in the opinion of the Chargee, acting reasonably, the security held by the Chargee and the Chargee's rights and remedies thereunder are not adversely affected and the Property and the market value thereof are not materially adversely affected;
 - (iii) such default is incapable of being remedied within such ten (10) day period, despite the diligent efforts of the Chargor; and
 - (iv) the Chargor shall have commenced to remedy such default promptly upon becoming aware of such default and the Chargor at all times shall continue to diligently use its reasonable commercial efforts to remedy such default,

the Chargor shall have such further period within which to remedy such default as may be reasonably required in the circumstances (not to exceed a maximum of 30 days); provided that a legal non-conforming use shall be deemed to comply with

applicable building, zoning and other municipal by-laws and all relevant statutes and regulations;

- (f) if the Chargor, a representative of the Chargor or any Property tenant/subtenant shall apply to rezone the Property or any part thereof in a manner which would materially alter the use, density and/or parking relating to the Property, without the prior written approval of the Chargee, unless in the case of an application by a person/entity other than the Chargor, the Chargor is diligently contesting such application and such application has not been granted;
- (g) if any of the Chargor's representations and warranties contained in the Charge, in the Mortgage Loan Application and/or in any related security/agreement/certificate now or hereafter given to the Chargee in connection with the Charge are untrue or inaccurate when given or made or deemed to have been given or made; for the purposes of this Subsection, statements of fact set out in corporate certificates shall be deemed to be representations and warranties;
- (h) if the Chargor shall fail to observe or perform any obligations in the Lease (if applicable) and such failure to observe or perform has not been remedied within a period of ten (10) days or for such shorter period as is necessary to avoid the possibility of the alteration or termination of the Chargor's interest in the Lease;
- (i) if the Chargor shall fail to observe or perform any obligations contained in the Space Leases and/or the Permitted Encumbrances and such failure to observe or perform has not been remedied within a period of ten (10) days after written notice thereof has been given to the Chargor;
- (j) if the Chargor shall default or another event shall occur pursuant to prior-ranking and/or subsequent-ranking mortgage security and, as a result thereof, such mortgage security shall have become enforceable (the Chargor shall be deemed to be in default under this Subsection notwithstanding any obligation of the mortgage security holder(s) to give notice of default and/or a right to rectify and notwithstanding whether such notice(s) and/or right(s) are, in fact, given);
- (k) if the Chargor shall default in any of its covenants or other obligations contained in the Charge, in the Mortgage Loan Application and/or in any of its obligations contained in related security/agreements/certificates (other than the covenants/obligations which are the subject-matter of Subsections 9(a), (b), (c), (d), (e), (h) and (j) hereof); provided that if, but only if, such default is capable of being remedied and provided also that such default is not caused by the non-payment of money, such default shall not constitute an Event of Default if such default has been remedied within ten (10) days after notice thereof has been given in writing to the Chargor; provided further that if:
 - (i) such default does not relate to an obligation the date for performance of which was specified in advance under the Charge or in any additional security held by the Chargee;
 - (ii) in the opinion of the Chargee, acting reasonably, the security held by the Chargee and the Chargee's rights and remedies thereunder are not adversely affected and the Property and the market value thereof are not materially adversely affected;
 - (iii) such default is incapable of being remedied within such ten (10) day period, despite the diligent efforts of the Chargor; and
 - (iv) the Chargor shall have commenced to remedy such default promptly upon becoming aware of such default and the Chargor at all times shall continue to diligently use its reasonable commercial efforts to remedy such default,

the Chargor shall have such further period within which to remedy such default as may be reasonably required in the circumstances (not to exceed a maximum of 30 days);

- (l) if the Property or any material part thereof shall be expropriated;
- (m) if the Property or any part thereof shall be abandoned by the Chargor;
- (n) if the aggregate of the then outstanding Principal Amount, unpaid interest pursuant to the Charge (whether or not the payment thereof is deferred), unpaid Costs and all other amounts payable pursuant to the Charge exceeds an amount equal to 80% of the appraised value thereof (based upon an appraisal by a real estate appraiser approved by the Chargee, the cost of which appraisal shall be paid for by the Chargor), or 65% if the majority of the Principal Amount is comprised of a line or lines of credit; and
- (o) if an Event of Default or its equivalent shall occur and be continuing pursuant to another loan between the Chargee and the Chargor and/or an affiliate of the Chargor.

18. **REMEDIES ON DEFAULT**

- (a) If an Event of Default shall have occurred and be continuing, the Chargee may, at its option (in its sole, absolute and unfettered discretion), but shall have no obligation to, from time to time and in any order, separately or in combination, and after providing the minimum notice, if any, required under applicable law and after obtaining court approval where necessary, enforce any one or more of the following remedies:
 - (i) accelerate the obligation to pay all or any part of the Indebtedness;
 - (ii) sue the Chargor for all or any part of the Indebtedness;
 - (iii) distrain for arrears of all or any part of the Indebtedness;
 - (iv) initiate judicial proceedings to foreclose the Chargor's interest in all or any part of the Property, to take possession of it and/or to sell, lease/sublease or otherwise deal with it;
 - (v) immediately gain access to and/or take possession of all of the Property or any part or parts thereof with power, among other things, to exclude the Chargor and its agents and servants therefrom (without the let, suit, hindrance, interruption or denial of the Chargor), to complete and/or preserve and maintain the Property and make such repairs, improvements and replacements thereto as the Chargee shall determine, in its sole, absolute and unfettered discretion, to receive Space Lease rents/subrents, income and profits of any kind whatsoever and pay therefrom or from its own funds in the event of a shortfall all expenses of maintaining, preserving, protecting and operating the Property and all charges against the Property ranking in priority to the Charge or payment of which may be necessary to preserve or protect the Property, lease/sublease any vacant space and renew/amend from time to time any or all of the Space Leases, and enjoy and exercise all powers necessary for the entering into of possession including, without limitation, power to enter into contracts, purchase on credit, advance its own funds at reasonable interest rates and undertake obligations for the foregoing purposes upon the security of the Charge;
 - (vi) assign any Space Lease and sell the last day of the term granted by the Space Lease and/or remove the Chargor or any other person from being a trustee of the last day of the term of any Space Lease and appoint a new trustee or trustees in its place;

- (vii) apply to a court of competent jurisdiction for the appointment of a receiver or receiver and manager to take possession of all or such part or parts of the Property as the Chargee shall designate, with such duties, powers and obligations as the court making the appointment shall confer; and the Chargor hereby consents to the appointment of such receiver or receiver and manager;
- (viii) with or without entering into possession of the Property or any part thereof, by writing duly executed by the Chargee, appoint a receiver (such term shall be deemed to include a receiver and manager) of the Property or any part thereof and of the rents/subrents and profits thereof, and with or without security, and may from time to time by similar writing remove any receiver and appoint another in its stead and upon the appointment of any such receiver or receivers from time to time the following provisions shall apply:
 - (I) every such receiver shall, to the extent permitted by law, be the irrevocable agent or attorney of the Chargor for the collection of all rents/subrents falling due in respect of the Property or any part thereof, whether in respect of any tenancies/subtenancies created in priority to the Charge or subsequent thereto;
 - (II) every such receiver may, in the sole, absolute and unfettered discretion of the Chargee and by writing, be vested with all or any of the powers and discretions of the Chargee hereunder including, without limitation, borrowing funds on the security of the Property in priority to the Charge or otherwise;
 - (III) the Chargee may from time to time by such writing fix the reasonable remuneration of every such receiver who shall be entitled to deduct the same out of the receipts from the Property or the proceeds thereof;
 - (IV) every such receiver shall, so far as concerns the responsibility of its acts or omissions, be deemed the agent or attorney of the Chargor and in no event the agent of the Chargee;
 - (V) the appointment of every such receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a mortgagee in possession in respect of the Property or any part thereof;
 - (VI) every such receiver shall from time to time have the power to lease/sublease, in accordance with prudent real estate practice, any portion of the Property for such term and subject to such provisions as he may deem advisable or expedient and in so doing every such receiver shall act as the attorney or agent of the Chargor and he shall have authority to execute any Space Lease of any such premises in the name of and on behalf of the Chargor and the Chargor undertakes to ratify and confirm whatever any such receiver may do in the Property;
 - (VII) every such receiver shall have full power to manage, operate, improve, repair, alter, complete and/or extend the Property or any part thereof in the name of the Chargor for the purpose of securing the payment of the Principal Amount and interest thereon;
 - (VIII) no such receiver shall be liable to the Chargor to account for moneys or damages other than cash received by it in respect of the

Property or any part thereof and every such receiver shall apply such cash so received to pay in the following order:

- (A) its reasonable remuneration as aforesaid;
 - (B) all expenses properly made or incurred by it in connection with the management, operation, improvement, repair, alteration, completion and/or extension of the Property or any part thereof;
 - (C) moneys which may from time to time be or become charged upon the Property in priority to the Charge, and all realty taxes, insurance premiums and every other proper expenditure made or incurred by it in respect of the Property or any part thereof;
 - (D) all interest due or falling due, other moneys (if any) on account of proper expenditures made or incurred by or for the Chargee, the outstanding balance of the Principal Amount and all other amounts due to the Chargee pursuant to the Charge; and
 - (E) thereafter any surplus remaining in the hands of every such receiver to the Chargor and/or its successors and assigns;
- (ix) the Chargee may at any time and from time to time terminate any such receivership by notice in writing, duly executed by the Chargee, to the Chargor and to any such receiver;
 - (x) subject to the provisions of any applicable legislation, with or without entering into possession, sell all or part of the Property, either as a whole or in separate parcels, at public auction, by public tender or by private sale (or a combination of one or more of the three), at such time and places, subject to adjournment from time to time by the Chargee, on such reasonable terms and conditions (including reserve bids, price and the timing of payment and the security therefor) as the Chargee shall determine; the Chargee shall determine the extent and nature of advertising (if any) for the sale and whether easements and reciprocal rights agreements are necessary in the sale of separate parcels; the Chargee may use the services of any real estate agent in connection with such sale; the Chargee may elect to purchase part or all of the Property in the above sale, shall not be answerable for loss occasioned thereby and in the case of a sale on credit the Chargee shall be bound only to pay such moneys as have been actually received from purchasers after satisfaction of the claims of the Chargee;
 - (xi) realize all or any part or parts of the security hereby constituted by any other means of any nature or kind whatsoever that a court of competent jurisdiction shall approve as being just and expedient in the circumstances, having regard to the nature of the operations carried on in the Property, including any other action, suit, remedy or proceeding authorized or permitted by the Charge or by law or in equity, and not to be limited to forms of realization which a court is given jurisdiction to approve under statute;
 - (xii) with or without taking possession, take any action or proceeding to enforce the performance of any covenant contained in any of the Space Leases;
 - (xiii) take any action or proceeding to enforce payment of the Principal Amount and interest and other moneys secured hereunder or performance of any other covenant contained in the Charge or to enforce the security hereby

constituted or exercise any of the rights of the Chargee under the Charge or any other security held by the Chargee, and to bring to sale the Property or any part or parts thereof under a judgment or decree of a court or courts of competent jurisdiction or by the enforcement of any other legal remedy which the Chargee shall deem most effectual to protect and enforce any of its rights hereunder;

- (xiv) exercise in respect of each insurance policy, insurance trust agreement, Space Lease, rent and benefit assigned pursuant to the Charge, the rights and remedies exercisable by the Chargor in respect of all or any part of such property; and
 - (xv) exercise any other rights and/or pursue any other remedies authorized or permitted pursuant to the Charge, by law and/or in equity.
- (b) The Chargor hereby waives the right to claim any exemption with respect to the Chargee's right of distraint and agrees that the Chargee shall not be limited as to the amount for which it may distraint.
 - (c) Neither the Chargor nor any person claiming an interest in the Property through the Chargor shall interfere in any way with the Chargee's possession of the Property obtained pursuant to the Charge nor with the possession of anyone to whom all or any part of the Property is sold or leased/subleased pursuant to the Charge.
 - (d) Any purchaser or lessee/sublessee from the Chargee or a receiver appointed pursuant to the Charge shall not be required to verify the validity, legality, regularity or propriety of such sale or lease/sublease, or that a default or Event of Default has occurred on account of which the sale or lease is being made. The Chargor agrees that each such purchaser and lessee/sublessee shall receive good title to or a valid lease/sublease of that part of the Property sold or leased/subleased, and that the Chargor shall not make any claims concerning the validity, legality, regularity or propriety of the sale or lease against the purchaser or lessee/sublessee or their successors/assigns.
 - (e) If the Chargor has a leasehold interest in the Property, the Chargor irrevocably appoints each officer of the Chargee (with power of substitution) to be the Chargor's attorney during the continuance of the Charge so as to permit the Chargee to execute any document or do any act or thing which the Chargee is permitted or the Chargor is required to execute or do pursuant to the provisions of the Charge. The Chargor shall, at the Chargee's request and at its own cost, sell and assign to the Chargee, or any person appointed by the Chargee, the last day of the term of any Space Lease.
 - (f) In the event of a sale or lease/sublease pursuant to the Charge, whether by the Chargee, by a receiver, or pursuant to judicial proceedings, the Chargor shall, forthwith following a request, execute and deliver to the purchaser or lessee/sublessee such deeds, assurances, conveyances and receipts as may be necessary to transfer good title to the Property sold, and if in case of any such sale or lease/sublease the Chargor shall fail to do so forthwith following a request, the Chargee or such receiver may execute and deliver to the purchaser or lessee/sublessee of the Property, or any part thereof, such deeds, assurances, conveyances and receipts as may be necessary to transfer good title, the Chargee or, if appointed, the receiver being hereby irrevocably constituted the attorney of the Chargor for the purpose of making such sale or lease/sublease and executing all deeds, assurances, conveyances and receipts and any such sale or lease/sublease shall be a perpetual bar, both at law and in equity, against the Chargor and all persons claiming an interest in the Property sold or leased/subleased or any part thereof by, from, through or under the Chargor.

19. RENEWAL

Upon expiry of the term of the Charge and provided no Event of Default has occurred and is continuing, the Charge shall automatically be renewed on the same terms and conditions, and for the same term (as the most recent term), except the Interest Rate, which shall be the Chargee's then posted interest rate for such renewal term. Whether or not there are any subsequent Property encumbrances at the time any renewal of the Charge shall come into force and effect, it shall not be necessary for the Chargee to register any such agreement on title to the Property in order to retain priority for the Charge, as renewed, over any other instrument registered after the Charge. The Chargor shall pay all costs, including legal and administrative costs of the Charge, incurred in connection with any such renewal.

Notwithstanding the above, either the Chargor or the Chargee may, not less than twenty (20) Business Days prior to expiry of the then Charge term, provide notice of its refusal to renew, in which event the Indebtedness shall become due and payable on the final day of the Charge term.

In addition to the above, prior to expiry of the term of the Charge and provided no Event of Default has occurred and is continuing, the Chargor may request a renewal of the Charge with amended terms and, if the Chargee agrees to such amended terms, then the Chargor shall pay the Chargee's standard renewal fee together with an amount equal to the greater of three (3) months interest and, if the Interest Rate has been reduced, then the Interest Rate Differential Amount calculated until the maturity date.

20. **JUDGMENTS, CHARGE NOT A SUBSTITUTE FOR OTHER SECURITY**

- (a) If the Chargee obtains a judgment or judgments against the Chargor for failure to comply with any of the Chargor's agreements or obligations contained in the Charge, or in respect of all or any part of the Indebtedness, or otherwise, no such judgment shall operate as a merger of such agreements or obligations or all or any part of the Indebtedness, or operate as a merger of or in other way affect the security created by the Charge or any other security, or the Chargee's right to pursue the Chargee's other remedies or to enforce the Chargor's other obligations (whether hereunder or otherwise), or the Chargee's right to interest on the Indebtedness at the Interest Rate. Any such judgment may provide that interest thereon shall be computed at the Interest Rate until such judgment is fully paid and satisfied.
- (b) The Charge is in addition to and not in substitution for any other security now or later held by the Chargee for all or any part of the Indebtedness. The Chargor agrees that the Charge shall not create any merger or discharge of any part of the Indebtedness or any other debt owing to the Chargee or of any lien, bond, promissory note, bill of exchange, guarantee, indemnity or other security now or later held by the Chargee (whether from the Chargor or any other person). The Chargor further agrees that the Charge shall not in any way affect other security now or later held by the Chargee for all or any part of the Indebtedness or the liability of any endorser or any other person, or any of the Chargee's remedies, in respect of any such lien, bond, bill of exchange, promissory note, guarantee, indemnity or other security, or any renewal thereof, held by the Chargee for or on account of all or any part of the Indebtedness.

21. **DISCHARGE**

The Charge shall only terminate upon payment in full of the Indebtedness and complete performance of the Chargor's other obligations hereunder, provided that such termination shall be effective only if the Chargee shall have received a written notice from the Chargor requesting a discharge or assignment hereof and if no further Indebtedness becomes outstanding prior to the delivering of such discharge or assignment. Upon termination of the Charge, the Chargor may request in writing that the Chargee provide the Chargor with a discharge of the Charge or an assignment of the Charge to a third party, and the Chargee shall sign such document and send it to the Chargor within a reasonable time. The Chargor shall pay the Chargee's usual administration fee for preparing, reviewing, executing and/or delivering any such discharge or assignment and the Chargee's legal and other expenses, whether such document is prepared by the Chargor's or the Chargee's lawyer. The Chargor shall be responsible for registering the discharge or assignment on title and for the costs of registration.

22. INTERPRETATION AND HEADINGS

All Section, Subsection, Paragraph and Subparagraph headings do not form a part of the Charge but are used for convenience of reference only. Any reference in the Charge to the singular or the neuter shall also mean the plural or the masculine or the feminine where the context or the parties to the Charge so require. If any provision of the Charge is or becomes illegal or unenforceable it shall be considered separate and severable from the remaining provisions hereof which shall remain in force and be binding as though such first mentioned provision was not included. Any reference herein to the execution of the Charge shall be deemed to refer to the Date of Signature (as specified in the Charge) of the first named Chargor who signs the Charge.

23. SUCCESSORS AND ASSIGNS, JOINT AND SEVERAL LIABILITY

- (a) The Charge is binding on and enures to the benefit of the Chargor and the Chargee and their respective heirs, executors, administrators, successors and assigns and any person(s) to whom the Chargor's interest in all or any part of the Property, or the Chargee's interest in the Charge, is transferred and any reference to the Chargor or the Chargee shall be deemed to include a reference to the heirs, executors, administrators, successors and assigns of such party.
- (b) If more than one person signs the Charge as Chargor, such persons are jointly and severally liable to observe and perform all of the Chargor's obligations therein.

24. CHARGEЕ CONSENT

Where in the Charge any matter is subject to the consent or approval of the Chargee or is to be acceptable to the Chargee, such consent, approval or determination of acceptability shall be in the Chargee's sole, absolute and unfettered discretion unless otherwise expressly provided herein. The Chargee shall not be liable to the Chargor in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such approval shall be for the account of the Chargor.

25. SPOUSAL CONSENT

The spouse of the Chargor (if any) consents to the Chargor's issuance of the Charge and releases all of his/her rights in the Property and all related property to the extent necessary to give effect to the rights of the Chargee thereunder, and agrees that the Chargee may, without further notice, deal with the Property, the related property and the Indebtedness as the Chargee shall see fit.

26. CHANGE IN STATUS

Immediately following any change affecting any of the following, namely:

- (a) the spousal status of the Chargor;
- (b) the qualification of the Property as a matrimonial home within the meaning of Part II of the *Family Law Act* (Ontario);
- (c) registered ownership of the Property; and/or
- (d) beneficial ownership of the Property,

then the Chargor shall forthwith provide the Chargee with written notice thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner(s) for the time being of the Property and any spouse who is not an owner but who has a right of possession pursuant to the *Family Law Act*; the Chargor also covenants to provide such information forthwith following a written request therefor from the Chargee.

27. PORTABILITY

If the Principal Amount is comprised of a residential and conventional mortgage loan only (and not another form of mortgage loan or a line of credit or a loan by way of promissory note or other evidence of indebtedness), no Event of Default has occurred which is continuing, no prior

or subsequent-ranking mortgage Encumbrance is registered against the Property and the Chargee, in its sole, absolute and unfettered discretion, approves, then the Chargor may elect:

- (a) to increase or decrease the Principal Amount (any decrease shall be treated as a prepayment of the Principal Amount, as otherwise provided for hereunder); and/or
- (b) to transfer the security for the Indebtedness from the Property to a replacement single family residence property owned by the Chargor; and/or
- (c) to sell the Property to a third party (and in such event, the Chargee shall determine, in its sole, absolute and unfettered discretion, if the former Chargor shall be released from its Indebtedness obligations (including pursuant to the Charge).

The Interest Rate shall continue to apply to the existing Principal Amount and a new interest rate shall apply to the Principal Amount increase.

28. **PERSONAL INFORMATION**

The Chargor authorizes the Chargee to do the following:

- (a) to collect information about the Chargor, the Guarantor and/or related entities from information provided by one or more of them, by credit references, by credit reporting agencies, by service providers (retained in connection with the Charge), by other financial institutions and/or by agents authorized to act on behalf of one or more of the Chargor, the Guarantor and/or related entities;
- (b) subject to the Chargee's privacy policy (a copy of which has been provided to the Chargor), to use the above information in approving, monitoring and/or enforcing the Charge and/or related security; and
- (c) subject to the Chargee's above-described privacy policy, to disclose:
 - (i) the above information (except health information) in approving, monitoring and/or enforcing the Charge and/or related security;
 - (ii) the above information (except health information) in providing reasonable information to other credit grantors and mortgage insurers; and
 - (iii) the above information (including health information) as required or permitted under law.

29. **ASSIGNMENT BY CHARGEE**

The Chargee may, without notice to and without consent of the Chargor, assign, syndicate, securitize, transfer or grant participation interests in part or all of the Indebtedness, the Charge and all related rights.

30. **EXCLUSION OF STATUTORY COVENANTS**

The implied covenants deemed to be included in a charge under subsection 7(1) of the Act shall be and are hereby excluded from the Charge, and replaced by this Set of Standard Charge Terms which are covenants by the Chargor, for the Chargor and with the Chargee.

31. **INVALIDITY**

If any of the terms, covenants or conditions in the Charge contained inclusive of all Schedules shall be void for any reason, such shall be severed from the remainder of the provisions hereof and the remaining provisions shall remain in full force and effect notwithstanding such severance.

32. ***NATIONAL HOUSING ACT (CANADA)***

If the Charge is insured by the Canada Mortgage and Housing Corporation pursuant to the *National Housing Act* (Canada) and related statutes/regulations, then such statutes/regulations shall apply to the Charge and in the event of a conflict such statutes/regulations shall govern.

33. **GOVERNING LAW**

The Charge shall be governed by the laws of the province in which the Property is located and the laws of Canada applicable therein.

**ALTERNA SAVINGS AND CREDIT
UNION LIMITED
By their solicitor
FASKEN MARTINEAU DuMOULIN LLP**

Mark S. Brennan