

OPTIONAL MORTGAGE COVENANT

No. FNFC - 1042

(FOR GEMICO INSURED MORTGAGES)

Filed by: **FIRST NATIONAL FINANCIAL CORPORATION**
FORM J - GE

The following set of optional mortgage covenants shall be deemed to be included in every mortgage in which the set is referred to by its filing number, as provided in section 25 of the *Land Titles Act, S.N.B. 1981, c.L-11*

1. The mortgagor covenants with the mortgagee that the mortgagor shall pay to the mortgagee the principal sum and interest as hereinbefore set out and all other money payable hereunder; on all arrears of principal, interest and any other sums due to the mortgagee hereunder, interest shall be payable at the times and at the interest rate stated, before as well as after maturity, until paid.
2. The mortgagor covenants with the mortgagee that forthwith on the happening of any loss or damage the mortgagor shall furnish all necessary proofs and do all necessary acts to enable the mortgagee to obtain payment of the insurance proceeds; and that such insurance proceeds received by the mortgagee may at the option of the mortgagee be applied to repair or rebuild the building, or to pay the principal sum, interest and other money payable hereunder, whether or not any amount is then due, in such manner as the mortgagee may determine, or to pay the mortgagor or any person appearing by the registered title to be the owner of the lands and premises, or partly in one way and partly in another; but any payment of insurance proceeds to the mortgagor shall not operate as a reduction of any money payable hereunder by the mortgagor to the mortgagee.
3. The mortgagor covenants with the mortgagee that the mortgagor will not make or permit to be made any demolition, alterations or additions to the lands and premises without the consent of the mortgagee, and will not use the lands and premises or permit them to be used, without the consent of the mortgagee, for a purpose other than that disclosed to the mortgagee in the application for this mortgage.
4. The mortgagor covenants with the mortgagee that the mortgagor shall pay all taxes, rates, levies and assessments upon the lands and premises during the continuance of this mortgage as and when the same become due and payable, and shall produce to the mortgagee receipts for such payments.
5. The mortgagor covenants with the mortgagee that the mortgagee may pay any liens, taxes, rates, charges or encumbrances now or hereafter existing upon the lands and premises having or which the mortgagee may bona fide consider to have priority over this mortgage, and in that event the mortgagee shall have all the rights of and stand in the position of and be entitled to all the rights, equities and securities of the person so paid off; and any amounts so paid shall be payable forthwith by the mortgagor to the mortgagee; and the decision of the mortgagee as to the validity or amount of any advance or disbursement made under this mortgage or of any claim so paid off shall be final and binding on the mortgagor.
6. The mortgagor covenants with the mortgagee that neither the execution nor registration of this mortgage nor the advance of part of the principal sum shall bind the mortgagee to advance the principal sum or any unadvanced portion thereof; any advance shall be at the sole discretion of the mortgagee.
7. On default of any payment hereunder or on breach of any covenant, agreement or proviso herein contained or implied on the part of the mortgagor to be made, observed or performed; or if any waste be committed or suffered on the lands and premises or any act or thing be done by the mortgagor by which the value of the lands and premises shall, or in the opinion of the mortgagee may, be diminished; or if the mortgagor makes an assignment for the benefit of creditors or a proposal under the *Bankruptcy and Insolvency Act*, or has a bankruptcy petition filed against him; or if the mortgagor allows a creditor to enter judgment against him by reason of his financial inability to pay a debt or debts; then the whole of the principal sum, interest and all other money payable hereunder remaining unpaid shall at the option of the mortgagee become due and the mortgagee shall have quiet possession of the lands and premises; but in the event that the mortgagee waives his right to call in the whole of such money he shall not be debarred from asserting and exercising his right to call in the money upon the happening of any future default or breach.

8. On default of any payment hereunder or on breach of any covenant, agreement or proviso herein contained or implied on the part of the mortgagor to be made, observed or performed, in whole or in part, the power of sale and all other powers conferred on the mortgagee by virtue of the Property Act, R.S.N.B. 1973, c. P-19, are incorporated herein, as if the mortgage were made by deed.
9. A discharge of this mortgage shall be prepared by the mortgagee at the expense of the mortgagor, and the mortgagee shall have a reasonable time after receipt of payment in full within which to prepare and execute such discharge.
10. The mortgagee may, either with or without consideration, release any person from any liability under this mortgage or release part or all of the lands and premises or release any other security for the money payable hereunder, without being accountable for the value thereof or for any moneys except those actually received by the mortgagee and without releasing any other of the lands and premises where a part of the lands and premises are released.
11. This mortgage shall not operate by way of merger of any indebtedness of the mortgagor to the mortgagee or any contract or instrument by which the same may now or at any time hereafter be represented or evidenced, and no judgment obtained by the mortgagee shall operate by way of merger of this mortgage or in any way affect the security hereby created or the mortgagee's right to interest.
12. The mortgagor covenants with the mortgagee that all erections, buildings, machinery, plant, and improvements whatsoever, including without limitation furnaces, boilers, water heaters and all plumbing, air conditioning, ventilating and heating equipment, electric light fixtures, window blinds, storm windows and storm doors, window screens and screen doors, and all apparatus and equipment appurtenant thereto, which are now or which shall hereafter be put upon the lands and premises are or shall thereafter be deemed to be fixtures and a part of the lands and premises whether or not affixed in law thereto.
13. The mortgagor covenants that all arrears of principal and interest or compound interest required by this mortgage to be paid shall bear compound interest at the rate hereinbefore set out as well after as before maturity and default to be computed with rests and paid half-yearly on the semi-annual anniversaries of the interest adjustment date in each year and all such interest and compound interest shall be a charge on the lands and premises.
14. The mortgagor covenants with the mortgagee that the mortgagor will pay to the mortgagee interest as hereinbefore set out on the amounts from time to time advanced, computed from the respective dates of such advances, which interest shall fall due and be paid on the first day of each and every month commencing with the month next following the month in which the first advance is made and continuing to and including the interest adjustment date, and thereafter payments of interest shall be made on the Payment Dates set out in the Form 15 Mortgage which incorporates these covenants.
15. The mortgagor covenants that he has a good title in fee simple to the specified parcel referred to in the Form 15 Mortgage which incorporates these covenants.
16. Without in any way limiting or restricting the generality of the optional mortgage covenant numbered 4 above, or any other obligation on his part, the mortgagor covenants and agrees with the mortgagee that:
 - (a) the mortgagee may pay out of and deduct from any advance of principal money hereunder any taxes, rates, levies and assessments upon the lands and premises, the whole or any instalment of which has or will become payable at the interest adjustment date;
 - (b) whenever and so long as the mortgagee so requires the mortgagor shall on each of the monthly payment dates pay to the mortgagee in addition to all other monies hereby required to be paid by the mortgagor such sum as the mortgagee may from time to time estimate to be required in order to provide funds sufficient to pay in full all such taxes in each year at the time when such taxes or the first instalment thereof becomes payable and shall transmit to the mortgagee all tax bills and other notices relative to the imposition of taxes on the lands and premises forthwith after receipt thereof by him;
 - (c) all payments so made by the mortgagor to the mortgagee pursuant to this optional mortgage covenant numbered 16 shall at the option of the mortgagee be either credited to an account relating to this mortgage (hereinafter called the tax account) on the mortgagee's books of account (as to which account the mortgagee shall not be a trustee) or applied against principal or other monies owing hereunder;

- (d) if and so long as the mortgagee requires such additional payments to be made, the mortgagee shall so long as there is no default hereunder pay all such taxes and rates as they fall due or at such earlier time as the mortgagee deems fit and the amount thereby expended shall be debited against the tax account to the extent that the amount in the tax account is sufficient and the mortgagee may at his option either debit to the tax account or add to the principal sum hereby secured the amount, if any, by which the tax account is insufficient;
 - (e) any debit balance from time to time in the tax account shall bear interest at the same rate calculated in the same manner as the principal sum payable hereunder and shall together with such interest be secured hereby but nothing herein contained shall render the mortgagee liable to allow or pay interest on any credit balance from time to time in the tax account; and
 - (f) the amount, if any, by which the aggregate of all taxes which have been paid by the mortgagee exceeds at any time and from time to time the aggregate of all payments which have been made by the mortgagor to the mortgagee pursuant to this optional mortgage covenant numbered 16 shall be payable by the mortgagor forthwith on demand therefor at any time and from time to time.
17. Without in any way limiting or restricting the generality of the requirement with respect to insurance set out in optional mortgage covenant numbered 2 above, the mortgagor covenants with the mortgagee that he will insure the buildings on the lands and premises against loss or damage by fire to the amount of not less than their full insurable value in lawful money of Canada and that without in any way limiting the generality of the foregoing;
- (a) if a sprinkler system or a steam boiler or any other thing or apparatus generating steam or operated by steam shall be installed or operated on the lands and premises the mortgagor shall insure the buildings on the said lands and premises against loss or damage caused by such sprinkler system or by such boiler other thing or apparatus or bursting explosion thereof or defect therein to the full insurable value of such buildings;
 - (b) the mortgagor shall insure such buildings against loss or damage by wind, storm, hail, lightning, explosion, riot, impact by aircraft or vehicles, smoke damage and such other risks and hazards as the mortgagee may from time to time require;
 - (c) the mortgagee may require any insurance upon or in respect of such buildings to be cancelled and new insurance to be effected in a company or companies to be named by the mortgagee and may without reference to the mortgagor effect or maintain any insurance upon or in respect of such buildings;
 - (d) evidence satisfactory to the mortgagee of the renewal of every policy of insurance shall be left with the mortgagee at least five days before the termination thereof, failing which the mortgagee may provide therefor;
 - (e) the mortgagee shall have a lien for the mortgage debt on all insurance upon or in respect of such buildings whether effected pursuant to the foregoing covenants or not;
 - (f) all policies of insurance upon or in respect of such buildings shall have loss payable to the mortgagee and shall be subject to mortgage clauses in a form approved by the mortgagee; and
 - (g) the foregoing covenants and provisions as to insurance and the provisions of optional mortgage covenant numbered 2 above shall apply with respect to all buildings upon the lands and premises whether presently existing or erected hereafter.
18. The mortgagor covenants with the mortgagee that he will keep the lands and premises and the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof and that the mortgagee may whenever he deems necessary either in person or by his agent enter upon and inspect the said lands and premises and any buildings, erections and improvements thereon and the reasonable cost of such inspection shall be payable forthwith by the mortgagor.
19. The mortgagor covenants with the mortgagee that if the mortgagor after any part of the principal sum has been advanced fails at any time for a period of ten days to diligently carry on the work of construction of any buildings or buildings being or to be erected on the lands and premises, or

without the consent in writing of the mortgagee departs in such construction from any plans and specifications thereof approved by the mortgagee or from the generally accepted standards of construction in the locality of the lands and premises, or permits any mechanics' or other liens to be registered against the lands and premises for any period exceeding thirty days, the mortgagee at his option at any time thereafter through his servants, agents or contractors may enter on the lands and premises and have exclusive possession thereof and of all materials, plant, gear and equipment thereon free of interference from or by the mortgagor and proceed to complete the construction of the building or buildings either according to the said plans and specifications or according to other plans, specifications or design as the mortgagee in his absolute discretion shall elect, and all expenses of every nature incurred by the mortgagee in going into possession and securing and in completing and equipping the building or buildings or in any way in connection therewith shall be payable by the mortgagor to the mortgagee.

20. The mortgagor covenants with the mortgagee that he will promptly observe, perform, execute and comply with all laws, rules, requirements, orders, directions, ordinances and regulations of every governmental authority or agency concerning the lands and premises and will at his own cost and expense make any and all improvements thereon or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time by any such present or future law, rule, requirement, order, direction, ordinance or regulation.
21. The mortgagor covenants with the mortgagee that the mortgagor shall pay all fees, costs as between solicitor and client, charges and expenses which are incurred in making and maintaining this mortgage as a charge on the lands and premises subject only to prior registered encumbrances permitted by the mortgagee, or in preparing and registering or renewing any security which is collateral to this mortgage, or in negotiating or effecting a renewal of this mortgage, or in advancing the money under this mortgage or in inspecting or revaluing the lands and premises, or in taking, recovering and keeping or attempting to procure possession of the lands and premises, or in any proceeding judicial or otherwise to protect or to realize this security, and any amounts so paid by the mortgagee shall be payable forthwith by the mortgagor to the mortgagee.
22. The mortgagor covenants with the mortgagee that all monies payable hereunder other than the payments of principal and interest hereinbefore provided for and such monthly payments with respect to taxes as may from time to time be required, shall be payable forthwith by the mortgagor without demand therefor, shall bear interest at the rate and calculated in the manner hereinbefore provided with respect to the principal sum, shall be added to the principal sum and shall be a charge upon the lands and premises to the same extent and effect as the principal sum hereby secured.
23. The mortgagor covenants with the mortgagee that in default of payment when due of all monies to be paid by the mortgagor pursuant to optional mortgage covenant numbered 16 above or of immediate payment of all monies referred to in optional mortgage covenant numbered 22 above, then in any such event the security of this mortgage shall forthwith become enforceable and all powers of entering upon the lands and premises and leasing or selling the same and all other powers hereby granted to the mortgagee may be exercised forthwith at the option of the mortgagee.
24. The mortgagor covenants with the mortgagee that forthwith after making any lease of the lands and premises or any part thereof the mortgagor will execute and deliver to the mortgagee an assignment in the mortgagee's usual form of all rents payable under such lease, the benefit of all covenants, agreements and provisos therein contained on the part of the tenant to be observed and performed and the reversion of such lease, and will also execute and deliver to the mortgagee all such notices or other documents as may be required in order to render such assignment effectual in law. All costs related to same will be payable forthwith by the mortgagor to the mortgagee.
25. The mortgagor covenants with the mortgagee that the mortgagor will produce the title deeds in his possession and allow copies to be made at the expense of the mortgagee.
26. When any notice is given by the mortgagee pursuant to or in connection with this mortgage such notice may be given in any manner permitted or provided by the laws applicable thereto or, subject to the laws applicable thereto, may at the option of the mortgagee be given by leaving it with a grown-up person on the lands and premises if occupied, by placing it on some portion of the lands and premises if unoccupied, by mailing it by prepaid registered post addressed to the mortgagor at the last known address of the mortgagor, or by publishing it once in some newspaper published or circulated in the city, town or county in which the lands and premises are situate; and such notice shall be sufficient although not addressed to any person by name or designation and notwithstanding that any person to be affected thereby may be unborn, unknown, unascertained or under any disability; and subject to the laws from time to time applicable thereto the giving of such notice in the manner aforesaid shall be as effectual as if it had been personally served upon all persons required to be served therewith.

27. The mortgagor covenants with the mortgagee that the mortgagee may distrain for arrears of interest and may distrain for arrears of principal in the same manner as for arrears of interest.
28. In the event of non-observance by the mortgagor of any covenant, proviso or agreement herein contained the mortgagee shall have the right, but shall not be bound, to perform or observe such covenant, proviso or agreement and all monies expended by the mortgagee in so doing shall be payable forthwith by the mortgagor. For the purpose of performing or observing such covenant, proviso or agreement the mortgagee may enter upon the lands and premises whenever and as often as may be requisite and shall not by reason thereof be deemed to be a mortgagee in possession.
29. If the mortgagee pays any sum of money pursuant to optional mortgage covenant numbered 5 above, he shall be entitled to retain any discharge he may receive in respect of such payment without registration for so long as he may deem fit.
30. The mortgagor and the guarantor, if any, covenant and agree with the mortgagee that:
 - (a) every part or lot into which the lands and premises are or may hereafter be divided does and shall stand charged with the whole of the monies hereby secured and no person shall have any right to require the mortgage monies to be apportioned upon or in respect of any such part or lot;
 - (b) the rights of the mortgagee hereunder shall not be prejudiced nor shall the liability of the mortgagor or any other person liable hereunder be reduced in any way or discharged by the taking of any other security, evidence of indebtedness or covenant for payment of any nature or kind whatsoever either at the time of execution of this mortgage or at any time hereafter;
 - (c) the mortgagee may at any time and from time to time without notice to or any consent or concurrence by any person make any settlement, extension or variation in terms of any obligation hereunder and no such release, discharge, settlement, extension or variation in terms nor any carelessness or neglect by the mortgagee in asserting his rights nor any other thing whatsoever, including, without in any way limiting the generality of the foregoing, the loss by operation of law of any right of the mortgagee against the mortgagor or any other person or the loss or destruction of any security shall in any way release, diminish or prejudice the security of this mortgage as against any lands remaining undischarged or release or prejudice any covenants therein contained or release or diminish the liability of the mortgagor or any other person liable hereunder so long as any monies expressed by this mortgage to be payable remain unpaid, and no security or surety shall be deemed to be released or discharged save by a formal release or discharge executed by the mortgagee; and
 - (d) nothing herein contained shall make the mortgagee responsible for the collection of rents payable under any lease of the lands and premises or any part thereof or for the performance of any covenants, terms or conditions contained in any such lease; the mortgagee shall not by virtue of these presents be deemed a mortgagee in possession of the lands and premises; the mortgagee shall be liable to account for only such rents as actually come into his hands less reasonable collection charges in respect thereof.
31. If the mortgagor sells, conveys, transfers or enters into any agreement of sale or transfer of the title of the lands and premises to a purchaser, grantee or transferee, then the mortgagee may at his option, exercised in writing, demand repayment of the monies secured by the mortgage with accrued interest and any amount required to be paid on a prepayment of the mortgage at that time. It is acknowledged that this mortgage is not intended to be assumable. No change of ownership of the lands and premises, whether or not approved by the mortgagee, shall in any way affect or prejudice the rights of the mortgagee against the mortgagor, the guarantor, or any other person liable for payment of the monies secured by the mortgage.
32. Notwithstanding anything herein contained no lease of the lands and premises or any part thereof made by the mortgagor without the consent in writing of the mortgagee shall have priority over this mortgage.
33. The mortgagor covenants with the mortgagee that interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the mortgagee; and all legal and other expenses for the preparation and execution of any discharge of this mortgage shall be borne by the mortgagor.
34. The mortgagor by execution of this mortgage acknowledges receipt of a true copy of these optional mortgage covenants.

35. The mortgagor covenants with the mortgagee that the mortgagor has a good right, full power and lawful authority to convey the lands and premises.
36. The mortgagor covenants with the mortgagee that the lands and premises are free and clear, exonerated, and discharged of and from all arrears of taxes and assessments whatsoever, due or payable upon or in respect of the said lands and premises, or any part thereof and of and from all former conveyances, mortgages, rights, annuities, debts, judgments, executions, and recognisances, and of and from all manner of other charges and encumbrances whatsoever.
37. The mortgagor covenants with the mortgagee that the mortgagor shall forever warrant and defend the lands and premises and every part thereof unto the mortgagee against the lawful claims of all persons whomsoever.
38. The mortgagor covenants with the mortgagee that the mortgagor shall and will from time to time, and at all times hereafter, make, do, suffer and execute, or cause or procure to be made, done, suffered, and executed, all and every such further reasonable acts, deeds, conveyances, and assurances in the law, for further, better and more perfectly and absolutely conveying and assuring the lands and premises, with the appurtenances, unto the mortgagee as by the mortgagee or his counsel in the law shall be lawfully and reasonable devised, advised or required.
39. The mortgagor covenants with the mortgagee that any agreement in writing between the mortgagor and the mortgagee for renewal of this mortgage or extension of the terms for payment of the money payable hereunder, or any part thereof, or for any change in the rate of interest herein, prior to the execution by the mortgagee of a discharge or release of this mortgage, need not be registered, but shall be effectual and binding to all intents and purposes on the lands and on the mortgagor, and on any mortgagee, assignee or transferee who acquires an interest in the lands or any part thereof subsequent to the date of this mortgage and shall take priority as against such mortgagee, assignee or transferee when deposited with or held at the office of the mortgagee and shall not release or affect any covenants or agreement herein or collateral thereto.
40. The mortgagee may apply all money received on account of this mortgage to the payment of the principal sum, interest and all other money payable hereunder, whether or not any amount is then due, in such manner as the mortgagee may determine, and the mortgagee shall not be bound to look to any other person or any security he may hold before being entitled to payment from any guarantor.
41. No extension of time given by the mortgagee to the mortgagor, or anyone claiming under him, or any other dealing by the mortgagee with the owner of the equity of redemption shall in any way affect or prejudice the rights of the mortgagee against the mortgagor or any other person liable for payment of the money hereby secured.
42. The mortgagor covenants with the mortgagee that upon any change affecting the marital status of the mortgagor or the qualification of the lands and premises as a marital home within the meaning of the *Marital Property Act*, the mortgagor will advise the mortgagee accordingly and furnish the mortgagee with full particulars thereof.
43. The mortgagor covenants with the mortgagee that wherever the singular or masculine is used in this mortgage, the same shall be construed as meaning the plural or the feminine or the neuter where the context of the parties hereto so require.
44. In this Section “the Act” means the Condominium Property Act or similar Act governing condominiums in the province of registration (as from time to time amended or replaced) and “Condominium Corporation” means the corporation created by the registration of a Declaration under the Act.

In the event the mortgaged property is a condominium unit, in addition to all other provisions of this mortgage, the mortgagor agrees to comply with the following provisions.

- (a) The mortgagor will comply with the Act and with the Declaration, by-laws and rules and regulations of the condominium corporation, as they exist from time to time.
- (b) The mortgagor will pay all amounts required by the Act and by the Declaration and by-laws of the condominium corporation on or before they are due and if required by the mortgagee, will provide evidence of such payment. If any such payments are not made when required, the mortgagee may make such payments on behalf of the mortgagor and thereafter declare this mortgage to be in default.

- (c) The mortgagor will mail or deliver to the mortgagee, by prepaid registered mail, copies of every notice, assessment, claim or demand for payment, rule or regulation, request or demand for the mortgagor to consent to any matter, and every other communication relating to the charged unit or the common elements of the condominium corporation so that they are received at least 5 days before any claim or demand is payable or response required, or in the case of other communications, within 5 days of the date they are received by the mortgagor.
 - (d) The mortgagee is hereby authorized, whether or not the mortgage is in default, to exercise the right of the mortgagor under the Act to vote at any meeting of the condominium corporation, and to consent to any matter relevant to the management, sale or other dealings with the property or assets of the condominium corporation or the termination of the application of the Act to the condominium corporation.
 - (e) The mortgagee may elect not to exercise its right to vote or consent and may so notify the condominium corporation, in which case the mortgagor may vote or consent on its own behalf. The election by the mortgagee not to vote or consent can be for a limited period of time or for a particular meeting or matter. Should the mortgagee exercise such right to vote or consent for the mortgagor, it shall not then become a mortgagee in possession and shall not be responsible to protect the interest of the mortgagor or for the way it shall vote or consent or for any failure to do so.
 - (f) At the option of the mortgagee, the loan amount will become payable immediately if:
 - (i) government of the property of the condominium corporation under the Act is terminated;
 - (ii) a vote of the unit owners authorizes the sale of the property of the condominium corporation or of a part of its common elements;
 - (iii) the condominium corporation fails to comply with the Act, Declaration, by-laws or rules and regulations;
 - (iv) the condominium corporation fails to insure the units and common elements against destruction or damage by fire and other perils usually insured against for full replacement cost; or
 - (v) the condominium corporation fails, in the opinion of the mortgagee, to manage the condominium property and assets in a careful way or to maintain its assets in good repair.
 - (g) In addition to the insurance maintained by the condominium corporation pursuant to the requirements of the Act, the mortgagor will insure all improvements which at any time are made to the condominium unit and, as well, insure against such additional risks as may be required by the mortgagee, will provide the mortgagee certified copies of every such insurance policy naming the mortgagee as loss payee and, not less than 5 days before any policy expires, evidence of its renewal. If any loss or damage occurs the mortgagor will immediately, at its expense, do everything necessary to enable the mortgagee to obtain the insurance proceeds. If permitted by law, these proceeds may, at the option of the mortgagee, be applied in whole or in part to repair the damage, be paid to the mortgagor, or be applied to reduce any part of the loan amount whether or not yet due. The obligation to insure the condominium building may be performed by the condominium corporation and the proceeds of insurance may be payable in the accordance with the Declaration and by-laws of the condominium corporation. Upon the occurrence of a loss or damage, the mortgagor will fully comply with the terms of all insurance policies and with the insurance provisions of such Declaration and by-laws.
45. The Guarantor, in consideration of the mortgagee making the loan to the mortgagor secured by this mortgage and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, hereby agrees as follows:
- (a) the Guarantor with the mortgagor, as principal debtor and not as surety, will well and truly pay or cause to be paid to the mortgagee all amounts owing by the mortgagor hereunder for principal, interest or otherwise (the "Indebtedness") on the days and times and in manner herein limited and appointed for the payment thereof;
 - (b) to unconditionally guarantee full performance and discharge by the mortgagor of all the obligations of the mortgagor under the provisions of this mortgage at the times and in the manner herein provided;

- (c) to indemnify and save harmless the mortgagee against and from all losses, damages, costs and expenses which the mortgagee may sustain, incur or be or become liable for by reason of:
 - (i) the failure for any reason whatsoever of the mortgagor to pay the Indebtedness or to do and perform any other act, matter or thing pursuant to the provisions of this mortgage; or
 - (ii) any act, action or proceeding of or by the mortgagee for or in connection with the recovery of the Indebtedness or the obtaining of performance by the mortgagor or any other person liable hereunder of any other act, matter or thing pursuant to the provisions of this mortgage;
 - (d) that the mortgagee shall not be obliged to proceed against the mortgagor or any other person liable hereunder or to enforce or exhaust any security before proceeding to enforce the obligations of the Guarantor herein set out and that enforcement of such obligations may take place before, after or contemporaneously with enforcement of any debt or obligation of the mortgagor or any other person liable hereunder or the enforcement of any security for any such debt or obligation;
 - (e) the mortgagee may grant any extension of time for payment, increase the rate of interest payable under this mortgage, renew or extend the term of this mortgage, release the whole or any part of the mortgaged premises or other security from this mortgage or otherwise deal with the mortgagor, all without in any way releasing the Guarantor from his covenant hereunder;
 - (f) that the Guarantor has read this mortgage and is fully aware of its terms and in particular the terms of this paragraph;
 - (g) the mortgagee, as it sees fit, may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and all existing securities up to, and abstain from taking securities from or perfecting securities of, and may compromise, compound, and accept compositions from, and may otherwise deal with, the mortgagor and all other persons liable upon any collateral or other security which the mortgagee may at any time hold, without notice to the Guarantor(s) and without changing or in any way affecting the undertaking of the Guarantor(s) hereunder; and
 - (h) where there is more than one Guarantor, each Guarantor agrees with the mortgagee to be jointly and severally responsible hereunder with the other Guarantors and the mortgagor.
46. (a) The mortgagor, when not in default of any terms or conditions contained in this mortgage, may do one or more of the following.
- (i) Without notice or charge, in any year of the Term, make, on any regular payment date (a "Payment Date"), prepayments of principal in minimum \$100.00 increments which do not exceed in the aggregate in that year fifteen percent (15%) of the original Principal Amount of this mortgage. A prepayment received after a Payment Date will be applied on the next Payment Date following receipt of the prepayment. If not, or to the extent not, exercised in any year of the Term, this privilege is not cumulative from year to year. This privilege does not apply in the case of a prepayment of the entire amount owing pursuant to subsection (a)(iv) of this Section 46.
 - (ii) Without notice or charge, once only in any year of the Term, on any Payment Date, increase the amount of the regular instalment payment of principal and interest by up to fifteen percent (15%) of the original principal and interest instalment amount payable under this mortgage. Such increase shall commence on the Payment Date specified by the mortgagor and shall apply to all subsequent instalment payments. If not, or to the extent not, exercised in any particular year, this privilege is not cumulative from year to year. This privilege may not be combined with a prepayment of the entire amount owing pursuant to subsection (a)(iv) of this Section 46.
 - (iii) Without notice or charge, on any Payment Date during the Term, make a prepayment of principal equal to, but not less than, the regular monthly instalment of principal and interest then being paid by the mortgagor. This privilege, if not exercised on a particular Payment Date, is not cumulative from Payment Date to Payment Date, and may not be combined with a prepayment of the entire amount owing pursuant to subsection (a)(iv) of this Section 46.

- (iv) At any time prior to the end of the Term of this mortgage, prepay the whole of the Principal Amount then outstanding together with all accrued interest thereon, without notice, on the payment to the mortgagee of the greater of:
 - (A) three months' interest at the interest rate payable hereunder (the "Interest Rate") on the Principal Amount outstanding; and
 - (B) the amount, if any, by which interest at the Interest Rate exceeds interest at the mortgagee's current interest rate for reinvestment calculated on the Principal Amount outstanding. Such amount shall be calculated from the date of prepayment to the maturity date of this mortgage.

For the purposes of this subsection, the "mortgagee's current interest rate for reinvestment" shall mean the mortgagee's lowest interest rate (which may not be its "posted" rate) in effect on the prepayment date for new mortgages of a similar kind for a term not greater than the remaining term of this mortgage and not less than the next shorter term offered by the mortgagee; except that where the remainder of the Term of this mortgage is less than the shortest term offered, the mortgagee's interest rate for its shortest term for mortgage loans shall apply.

- (b) Notwithstanding any prepayment on account of any portion of the Principal Amount, and subject to subsection (a)(ii) of this Section 46, the regular payment instalment originally set out in this mortgage shall continue to be payable on each Payment Date as set out in this mortgage for so long as there is any indebtedness outstanding under this mortgage.

47. Where the mortgagee administers a property tax account on behalf of the mortgagor (hereinafter referred to as the "Tax Account") , it is agreed that notwithstanding the provisions of section 16 hereof:

- (a) the mortgagee shall allow the mortgagor interest at not less than the prevailing rate published by the Royal Bank of Canada on personal savings deposits with chequing privileges on the minimum monthly balances standing in the Tax Account from time to time to the credit of the mortgagor for payment of taxes, such interest to be credited monthly to the Tax Account; and
- (b) the mortgagor shall be charged interest at the rate of 2% above the Royal Bank of Canada Prime Rate on debit balances, if any, outstanding in the Tax Account after payment of taxes by the mortgagee, until such debit balance is fully repaid.

The "Royal Bank of Canada Prime Rate" as used herein means the annual rate of interest announced from time to time by Royal Bank of Canada as a reference rate then in effect for determining interest on Canadian dollar loans made in Canada.

48. It is acknowledged by the mortgagor that, notwithstanding any other term or provision of this mortgage, this mortgage is not intended to be assumable. In the event of the mortgagor selling, conveying, transferring or entering into any agreement to sell or transfer the title of the mortgaged premises, then, at the option of the mortgagee, all monies hereby secured together with all accrued interest thereon and any amount required to be paid on a prepayment of the mortgage at that time, shall forthwith become due and payable.

49. In the event that any activity which violates the Criminal Code (Canada) (as same may be amended from time to time) or any other law or regulation of any competent authority is conducted on the mortgaged premises, the mortgagee may, at its option, declare all monies owing hereunder immediately due and payable and in such event any amount which would have been payable by the mortgagor had he exercised a right to prepayment at such date shall also become immediately due and payable.

50. If on or prior to maturity of this mortgage the mortgagor does not advise the mortgagee as to its intentions respecting discharging or renewing this mortgage, then provided this mortgage is not then in default, at the option of the mortgagee the term of this mortgage may be extended for a further term of six (6) months at the rate of interest being charged by the mortgagee on the maturity date of this mortgage for mortgages of a similar kind for a six month term which are open for prepayment. During such extended 6 month term, the mortgagor shall be entitled to prepay all or any part of the principal sum outstanding hereunder on 48 hours notice to the mortgagee without bonus. This clause shall continue to apply at the end of each such six month extended term until the mortgage has been paid in full.

51. The mortgagor shall pay an administration fee to the mortgagee for every dishonoured cheque or preauthorized cheque debit. The charge will automatically be debited to the mortgagor's Tax Account balance, or sundry account, unless a separate payment of such administration fee is received with a replacement cheque, or added to the pre-authorized cheque debit upon reissue. The charge may vary from time to time and will be published in the mortgagee's schedule of fees.

The mortgagee also reserves the right to charge reasonable fees for other administrative services such as, but not limited to, discharges, assumptions, transfers, payment frequency changes, mortgage statements, etc. and the mortgagor agrees to pay such fees.

52. The mortgagor covenants with the mortgagee that in this mortgage or in the covenants and conditions included herein whether as statutory covenants and conditions or otherwise, a reference to "lands and premises", "lands", "said lands", "mortgaged premises", "specified parcel" or any such similar reference shall include the specified parcel of lands identified by the specified parcel identifier referred to in the Form 15 mortgage into which these covenants are incorporated together with all the buildings and improvements thereon and all the rights, remedies, privileges and appurtenances thereto belonging or in anyway appertaining thereto and the reversions and remainders, rents, issues and profits thereof and all the estate, rights, title, property, claim and demand, both at law and in equity, of the mortgagor of, in, to or out of, and upon the said parcel and every part and parcel thereof.