

LAND REGISTRATION REFORM ACT, 1984
SET OF STANDARD CHARGE TERMS
(COLLATERAL/CONVENTIONAL MORTGAGE)

STANDARD CHARGE TERMS
CLAUSES TYPES DE CHARGE

Filed by:
FirstOntario Credit Union Limited ("Chargee")

Filing No. 2024-05 Cote
2024/07/29
Filing Date Date de Dépôt
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DEPUTY DIRECTOR OF TITLES
DIRECTRICE ADJOINTE DES DROITS IMMOBILES

The following set of standard charge terms shall be deemed to be included in every Charge in which the set is referred to by its filing number, as provided in Section 9 of the LRRRA. All capitalized terms used and not otherwise defined herein shall have the meanings ascribed in Section 37(r) hereof.

1. Collateral Security

The Charge shall, whether or not it secures a current or running account, be a general and continuing collateral security to the Chargee for payment of the Indebtedness in an amount not exceeding the amount secured by this Charge, the interest and compound interest secured hereunder, Costs and any other amounts payable hereunder and pursuant to the Financing Documents, and performance of the Chargor's other obligations under this Charge and under the Financing Documents, notwithstanding any fluctuation or change 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 any 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 times; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstances.

2. No Set-Offs

The Chargee shall be entitled to the Indebtedness and all other amounts payable pursuant to the provisions hereof free from all equities, deductions rights, abatements, set-offs or counterclaims.

3. Advance of Mortgage Monies

The Chargor agrees that neither the preparation, execution nor registration of this Charge shall bind the Chargee to advance the money hereby secured, nor does the advance of a part of the monies hereby bind the Chargee to advance any unadvanced portion thereof, but nevertheless the estate hereby conveyed shall take effect forthwith upon the execution of these presents by the Chargor, and the cost of all proceedings taken in connection with this Charge, including (without limiting the generality of the foregoing) the expense of the negotiation of this Charge, examination of the title, preparing and registering this Charge and valuation, are to be secured hereby whether or not the whole or any part of the principal sum hereof is advanced, the same being hereby charged upon the Lands and shall be without demand therefor, payable forthwith upon execution of these presents by the Chargor with interest at the rate applicable on the Indebtedness, and in default of payment thereof, the Chargee's power of sale hereby given, and all other remedies hereunder, shall be exercisable.

4. Promise to Pay and Perform

(a) The Chargor will pay or cause to be paid to the Chargee the full Indebtedness in the manner of payment provided by this Charge and the Financing Documents, without any deduction or abatement, and shall do, observe, perform, fulfil and keep all the provisions, covenants, agreements and stipulations contained in herein and therein. The Chargor will comply with all orders issued by regulatory authorities and all Applicable Laws relating to the Charged Premises or the Chargor's business, operations or activities conducted thereat. The Chargor will pay, as they fall due, all Taxes, rates, assessments and penalties, whether municipal, local, parliamentary, judicial, or administrative, which now or may hereafter be imposed, charged or levied upon the Charged Premises or against the Chargor and when required, produce for the Chargee receipts evidencing payment of the same.

(b) The Chargee shall have the right from time to time to estimate the amount of Taxes on the Charged Premises for each year and to require the Chargor to pay in each month, a specified portion of such estimated

amount in addition to the monthly instalments stipulated in this Charge (if any); and the Chargor covenants and agrees when so required to pay to the Chargee in addition to the monthly instalments herein mentioned (if any) such specified portion of the said Taxes with each of the twelve (12) succeeding monthly instalments herein mentioned next falling due, and the Chargor shall also pay to the Chargee on demand the amount, if any, by which the actual Taxes exceed such estimated amount. If the Principal and interest are repayable on demand only, this amount on account of Taxes shall be paid to the Chargee in each month on a day designated by the Chargee. If before any amount on account of Taxes so paid to the Chargee shall have been applied against Taxes, there shall be arrears in the payment of Principal and/or interest due and payable under this Charge, the Chargee may apply such amount paid on account of Taxes instead towards payment of the arrears of the Indebtedness. The Chargee is not obligated to pay interest to the Chargor on amounts paid to the Chargee on account of Taxes for the period of time immediately preceding the date the amounts are applied against Taxes.

(c) If payment provisions in this Charge require the Chargor to make payments of Principal and interest monthly, the Chargor and the Chargee may, from time to time, agree that payments of Principal and interest (and any amount on account of Taxes, if applicable) shall be made more frequently than monthly, in which case the Chargor shall comply with the terms of any such agreement instead of the payment provisions prescribed in this Charge.

(d) If this Charge contains an Interest Adjustment Date, the Chargor further covenants to pay, on such date, interest at the rate set forth in the Charge and all money advanced by the Chargee to the Chargor under the Charge, prior to such Interest Adjustment Date.

(e) The Chargor shall not make any material Improvement, whether financed by the Chargee or otherwise, without the prior written consent of the Chargee and except in accordance with contracts, plans and specifications approved by the Chargee in writing prior to the commencement of work on the Improvement.

(f) The Chargor covenants to observe and comply with all Applicable Laws and requirements of all government, governmental authorities and regulatory agencies relating to the Charged Premises or to the business of the Chargor, including all applicable zoning by-laws, rent control legislation, Environmental Laws and construction legislation.

(g) The Chargor shall not obtain secondary financing without written consent of the Chargee and the Chargor shall not, after registration of this Charge, register or cause to be registered any other Lien on the Charged Premises without the written consent of the Chargee.

(h) The Chargee may make any payment or cure any default under any Permitted Encumbrance and may pay and satisfy the whole or any part of any Taxes or Liens now or hereafter existing in respect of the Charged Premises. In the event of the Chargee making any such payment or curing a default or satisfying any such Taxes or Liens it shall be entitled to all the equities and securities of the person or persons so paid and is hereby authorized to retain any discharge thereof without registration for so long as it may think fit so to do.

5. Inspection

The Chargor agrees from time to time to supply to the Chargee forthwith upon demand therefor such information and documents as are within the Chargor's possession or under the Chargor's control regarding the Charged Premises or any part thereof as the Chargee may demand and to permit the Chargee and any persons acting for the Chargee at all reasonable times to enter upon the Charged Premises or any part thereof for the purpose of inspecting the Charged Premises or any part thereof and further agrees that the reasonable costs of every such inspection shall be a charge upon the Charged Premises and shall be payable forthwith upon demand therefor and bear interest at the rate applicable on the Indebtedness, compounded monthly until paid.

6. Title

The Chargor covenants that the Chargor has a good title in fee simple to the Charged Premises; that the Chargor has the right to convey the Charged Premises to the Chargee; that the Chargor will execute such further assurances of the Charged Premises as may be required by the Chargee; that the Chargor will warrant and defend its title to the Charged Premises and to every part thereof against the claims and demands of all persons whatsoever; that on default the Chargee shall have quiet possession of the Charged Premises free from all Liens except the Permitted Encumbrances, and in such event shall have full power and authority to carry on in the name of the Chargor the business operations of the Chargor including the power to borrow money and to advance its own monies as it deems necessary and any money so advanced by the Chargee shall bear interest

at the rate applicable on the Indebtedness and form a charge on the Charged Premises in priority to this Charge. The Chargor has done no act to encumber the Charged Premises, except the Permitted Encumbrances.

7. Insurance

(a) The Chargor, does hereby covenant and agree that it shall keep the Charged Premises constantly insured for the benefit of the Chargee against loss or damage for the amounts referred to herein and in the Financing Documents, and shall maintain such other insurance for the full insurable value until the Indebtedness hereby secured is fully paid, and will assign, transfer and deliver all such insurance policies to the Chargee and deliver renewals therefor to the Chargee no later than one week in advance of the expiration of any such policies or renewal thereof, stamped "paid" by the agent or company issuing the same. Further, if the Indebtedness includes any Construction Loan, the Chargor shall obtain and keep in full force, until the Indebtedness is paid in full, Builder's Risk Insurance as required by the Chargee. In the event the Chargor shall, for any reason, fail to keep the Charged Premises so insured or fail to deliver the policies of insurance to the Chargee, or fail to pay the premiums thereon, the Chargee, if it so elects, may have such insurance underwritten and pay the premiums thereon, and any premiums so paid shall be secured by this Charge and repaid by the Chargor in lawful money of Canada within ten (10) days after the payment by the Chargee. In default thereof, the Indebtedness and insurance premium with interest on such sum paid for insurance from the date of payment at the interest rate applicable to the Indebtedness may be and shall become due at the election of the Chargee, anything herein to the contrary notwithstanding; and should the Chargee by reason of any such insurance against loss as aforesaid receive any sum or sums of money, the amount thereof may be retained and applied by it toward payment of the amount hereby secured; provided however, that unless the amount received by the Chargee is applied expressly by it in reduction of the amount owing hereunder, the receipt by the Chargee of such proceeds shall not operate as payment of the Indebtedness hereunder; or, at the option of the Chargee, the same may be paid over, either wholly or in part, to the Chargor to enable it to repair the Charged Premises without affecting the amount of this Charge for the full amount secured hereby before such loss or payment ever took place.

(b) The Chargor shall insure the Charged Premises against loss or damage by fire and also against loss or damage by or from such additional perils, risks or events including extended coverage, and in such amounts as the Chargee may require at any time and from time to time but in any event in an amount sufficient to cover the Chargee's interest, and, the Chargor shall insure against general liability of at least \$5,000,000.00 and against business interruption arising out of the business operations of the Chargor on the Charged Premises for an amount to cover not less than the average of six (6) months' income on the Charged Premises, and, if a steam boiler, pressure vessel or any other object generating steam or operated by steam or if an oil or gas burner or coal blower or stoker or if a sprinkler system shall be operated on the Charged Premises, the Chargor shall also insure against loss or damage by explosion of or caused by such boiler, vessel or other object and loss or damage caused by such burner, blower or stoker and such sprinkler system.

(c) The Chargee may require any such insurance to be cancelled and new insurance to be effected in a company or companies named by the Chargee and also may without reference to the Chargor and without any obligation or liability to do so, effect or maintain any insurance herein provided for.

(d) The Chargor shall, as and when required by the Chargee, deliver to the Chargee each policy of insurance.

(e) Except as set out in paragraph 7(a) herein, evidence of the renewal of every policy or insurance shall be provided to the Chargee at least fifteen (15) days before the termination thereof or the Chargee may without any obligation or liability to so do provide therefor at the Chargor's sole expense.

(f) The Chargee shall have a lien for all monies secured by this Charge on all such insurance whether effected under the foregoing provisions or not.

(g) The Chargee may require that all or any portions of monies received on any insurance be applied in discharge of any or all of the Indebtedness hereby secured whether due or not or be used to fulfil any of the obligations contained herein on the part of the Chargor or as the Chargee may determine, or be used to replace or restore the Charged Premises to a condition satisfactory to the Chargee, or be released to the Chargor.

(h) The Chargee is hereby irrevocably appointed by the Chargor as attorney of the Chargor to assign any policy of insurance in the event of the foreclosure of this Charge or other extinguishment of the Indebtedness secured hereby.

(i) I.B.C Standard Charge clauses, in a form approved by the Chargee, will be attached to all insurance policies.

(j) The foregoing provisions as to insurance shall apply to all Fixtures and Improvements whether now or hereafter forming part of the Charged Premises.

8. Default

The security hereby created shall become enforceable in each of the following events (each event being herein called an "Event of Default"):

- (i) if the Chargee shall make an authorized and proper demand for payment of any Indebtedness or any other monies hereby secured and payment in full has not been received by the Chargee within the time limited therefor;
- (ii) if the Chargor defaults in the performance or observance of any other covenant or condition herein contained or in any of the Financing Documents;
- (iii) if there is any misrepresentation (whether written, oral or otherwise) or misstatement, including any misrepresentation or misstatement contained in any certificate or document, including but not limited to, any Financing Documents delivered by the Chargor or any representative of the Chargor to the Chargee in connection with this Charge or the Indebtedness;
- (iv) if a petition is filed under any Bankruptcy Legislation against the Chargor or an authorized assignment made or a Receiver appointed under any Bankruptcy Legislation or by or on behalf of a secured creditor of the Chargor or a proposal made to the creditors of the Chargor under any Bankruptcy Legislation;
- (v) if any execution, distress, sequestration or any other process of any court becomes enforceable against any of the property of the Chargor, or if a distress or like process is levied upon any of such property, including but not limited to the Charged Premises;
- (vi) if the Chargor commits any act of bankruptcy (within the meaning of Bankruptcy Legislation);
- (vii) if any portion of the Charged Premises is expropriated by any governmental body or authority which the Chargee (in its sole discretion) considers material;
- (viii) if a Transfer is made or permitted without the prior written consent of the Chargee in its sole discretion;
- (ix) if a Lien shall be created, issued, incurred or permitted to exist (by operation of law or otherwise and whether prior or subordinate to the security of this Charge) on any part of the Charged Premises or any interest therein (except in favour of the Chargee as security for the Indebtedness) without the prior written consent of the Chargee in its sole discretion;
- (x) if the Chargor violates Applicable Laws;
- (xi) if the Chargor dies, dissolves or is terminated;
- (xii) any judgment or order or any process of any court or Lien or statutory Lien or Deemed Trust becomes enforceable against the Chargor or any property of the Chargor or any creditor takes possession of any property of the Chargor, including but not limited to the Charged Premises;
- (xiii) any insurance policy for the Charged Premises or otherwise required hereunder or pursuant to the Financing Documents lapses or is cancelled;
- (xiv) any adverse change occurs with respect to the Charged Premises, or, in the financial condition of the Chargor;
- (xv) if the Chargor is in default under any other Lien or agreement relating to its Indebtedness, Costs, or Taxes or if the repayment of any demand loan with respect to the Charged Premises is called for, or if the Chargor is in default under any agreement binding it in respect of the Chargee;
- (xvi) the Chargor ceases or threatens to cease carrying on its business or becomes unable to pay its debts generally as such debts become due;

- (xvii) if the Indebtedness includes a Construction Loan, if work on the development of the Project on the Charged Premises is interrupted for a continuous period of twenty (20) days or more without the Chargee's prior written approval;
- (xviii) any change in use of the Charged Premises from that set out in the Financing Documents without the written consent of the Chargee;
- (xix) any of the Principal is used other than for its Purpose; and/or
- (xx) any other act, omission or event or circumstance which this Charge or any Financing Document states to be or provides is a default hereunder.

9. Remedies of Chargee on Default

Upon the occurrence of any Event of Default, in addition to any other rights or remedies available to it hereunder or at common law or in equity or pursuant to any statute, the Chargee shall have the following rights and powers:

- (i) The Chargee on default of payment for at least fifteen (15) days may, enter on and lease the Charged Premises or, on default of payment for at least fifteen (15) days, may, on at least thirty-five (35) days' notice, sell the Charged Premises. Such notice shall be given to such persons and in such manner and form and within such time as provided in the Mortgages Act. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with an adult person on the Charged Premises, if occupied, or by placing it on the Charged Premises if unoccupied or, at the option of the Chargee, by mailing it in a registered letter addressed to the Chargor at its last known address, or by publishing it once in a newspaper published in the county or district in which the Charged Premises are situate; and such notice shall be sufficient notwithstanding that any person to be affected thereby may be unknown, unascertained, or under disability. And it is hereby further agreed that the Chargee may sell the Charged Premises or any part thereof by public auction or private sale, for such price as can reasonably be obtained therefor, and on such terms as to credit and otherwise as shall appear to it most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulations as to the title or evidence or commencement of title or otherwise which it shall deem proper, and may terminate or vary any contract for the sale of the whole or any part of the Charged Premises and re-sell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder. The Chargor covenants to deliver to the Chargee forthwith upon demand therefor at any time after the power of sale has become exercisable, all deeds and documents in the Chargor's possession or power relating to the Charged Premises, or to the title thereto, which the Chargee would have been entitled to demand and recover if the Charged Premises had been conveyed, appointed, surrendered or assigned to and was then vested in the Chargee for all the estate and interest of the Chargor and of which the Chargor had power to dispose, and the Chargor agrees that if the legal estate is outstanding to a trustee, the Chargee, or any purchaser from it, the Chargee shall be entitled to call for a conveyance of the legal estate to the same extent as the Chargor could have called for such a conveyance if this Charge had not been made. The Chargor hereby appoints the Chargee the irrevocable attorney of the Chargor for the purpose of making the foregoing sale and executing such deed and other instruments as may be desirable to effect such sale, including any application under the *Planning Act* (Ontario).
- (ii) The Chargee may distrain for arrears of interest. Further, the Chargee may distrain for arrears of Principal in the same manner as if the same were arrears of interest. The Chargor waives the right to claim exceptions and agrees that the Chargee shall not be limited in the amount for which it may distrain.
- (iii) To enter upon and possess all or any part of the Charged Premises.

- (iv) To preserve and maintain the Charged Premises and make such replacements thereof and additions thereto as it shall deem advisable.

No remedy herein conferred upon or reserved to the Chargee is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist at law or in equity or by statute.

10. Additional Fees

In addition to, and not in substitution for, all Costs for which the Chargor may be responsible hereunder, and all fees chargeable pursuant to the Financing Documents, the Chargor shall pay to the Chargee the following fees:

- (i) whenever any cheque or other document, including, without limitation, any pre-authorized debit instrument, is presented for payment of any Principal, interest or other amount hereunder, and such cheque or other document is not honoured, the Chargor shall pay to the Chargee an NSF fee in the amount established from time to time by the Chargee;
- (ii) whenever any amount payable by the Chargor hereunder is not paid when due, the Chargor shall pay to the Chargee a collection fee in respect of the Chargee's collection efforts, in the amount established from time to time by the Chargee;
- (iii) whenever the Chargor is in default hereunder, the Chargor shall pay to the Chargee an inspection fee in the amount established from time to time by the Chargee in respect of each inspection of the Charged Premises made by or on behalf of the Chargee;
- (iv) whenever the Chargor is in default hereunder and the Chargee decides to exercise its right to sell the Charged Premises or to have them sold, whether or not such rights are exercised in full, the Chargor shall pay to the Chargee an administration fee in the amount established from time to time by the Chargee (which fee may be a per diem rate) for overhead or administrative expenses associated therewith; and
- (v) whenever the Chargor is in default hereunder and Chargee forbears from demand or enforcement, the Chargor shall be subject to a forbearance fee in the Chargee's discretion.

All the foregoing fees shall be payable on demand to the Chargee and shall be a charge on the Charged Premises and shall be added to the Principal and bear interest at the interest rate applicable thereon and, in default of payment, all remedies herein given to the Chargee and available at law may be exercised.

11. Acceleration

Upon the occurrence of any Event of Default, in addition to any other rights or remedies available to it hereunder or at common law or in equity or pursuant to any statute, the balance of the Indebtedness shall immediately become due and payable at the option of the Chargee.

12. Waiver of Default

The Chargee may in writing at any time or times after default waive any default hereunder and such waiver shall be effective in accordance with its terms. Provided further that any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default.

13. Release of Charged Premises by Chargee

The Chargee may, at its discretion, at all times release any part or parts of the Charged Premises or any other security or any surety for the money hereby secured either with or without sufficient consideration therefor, without responsibility therefor, and without thereby releasing any part of the Charged Premises or the Chargor or any other person from this Charge or from any of the covenants herein contained, it being agreed that every part or lot into which the Charged Premises are or may hereafter be divided does and shall stand charged with the whole money hereby secured and no person shall have the right to require the Charge monies to be apportioned and the Chargee shall not be accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee.

14. Application of Payments

In case less than the total Principal amount of this Charge becomes due and payable and is paid at any time prior to maturity, the Principal amount so paid shall be credited against the Principal instalments payable hereunder in inverse order of their maturity date, so that no credit shall be made against a Principal instalment of a stated maturity date until credits have been made against all Principal instalments of later maturity dates.

15. Repairs and Waste

No sale or other dealings by the Chargor with the equity of redemption in the Charged Premises or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any person liable for payment of the monies hereby secured. The Chargor covenants with the Chargee that it will keep the Charged Premises in good condition and repair according to the nature and description thereof respectively and will not commit or permit any act of waste on the said lands or remove, destroy or dispose of any of the Fixtures or Improvements, or any of the chattels of a fixed or permanent nature now or hereafter situate on the Lands save and except that the Chargor may remove any such chattels if it replaces the same with a comparable chattel which shall forthwith become a part of the Lands. If the Chargor neglects to keep the Charged Premises in good condition and repair, or commits or permits any act of waste on the Charged Premises (as to which the Chargee shall be sole judge) or if an Event of Default occurs, the Indebtedness hereby secured shall at the option of the Chargee forthwith become due and payable, and in default of payment of same, the powers of entering upon and leasing or selling hereby given may be exercised and the Chargee may make such repairs as it deems necessary, and the cost thereof with interest thereon shall be a charge upon the Charged Premises prior to all claims thereon subsequent to these presents.

16. Chargee's Costs

(a) If the Chargor shall be in default as to any of the covenants or provisos herein contained the Chargee may in its discretion perform any of the same capable of being performed by it but shall be under no obligation to do so and that all payments, costs, charges, expenses, and reasonable compensation payable to the Chargee which may be incurred in or attributable to such performance shall, with interest at the rate applicable on the Indebtedness, be a charge upon the Charged Premises.

(b) The Chargee may pay any Liens, (without being obliged to enquire into the validity or priority of the same and without taking or defending any action or proceedings to determine the rights or priorities of any Lien claimants to or under any such Lien), rents, Taxes or claims of any nature whatsoever levied upon the Charged Premises, or for insurance or income tax imposed, or that may be imposed, on the Chargee in respect of the Charged Premises or this Charge or the Indebtedness hereby secured, and the amount so paid together with all costs, charges, and expenses, including, without limiting the generality of the foregoing, costs as between solicitor and client, travelling expenses of the Chargee and all servants and agents of the Chargee and commissions on collections of rent, which may be incurred in taking, recovering and keeping possession of the Charged Premises or in inspecting or managing the same and generally in any other proceedings, matter or things taken or done in connection with or to collect, protect or realize upon this security or any security collateral hereto, or to perfect the title of the Charged Premises, shall be a charge on the Charged Premises in favour of the Chargee and shall be payable forthwith by the Chargor to the Chargee with interest at the rate applicable on the Indebtedness until paid, and in default the power of sale hereby given shall be exercisable in addition to all other remedies.

(c) In the Event of Default in the payment of any instalment or any other Indebtedness payable hereunder by the Chargor or on breach of any covenant, proviso or agreement herein contained after all or any part of the monies hereby secured have been advanced, the Chargee may, at such time or times as the Chargee may deem necessary and without the concurrence of any person, enter upon the Charged Premises and may make such arrangement for completing the construction of, repairing or putting in order of any Fixtures or Improvements on the said Lands or for inspecting, taking care of, leasing, collecting the rents and managing generally the Charged Premises, as the Chargee may deem expedient and all reasonable costs, charges and expenses, including allowances for the time and service of any employee of the Chargee, or any other person appointed for the above purposes, shall be a charge upon the Charged Premises, shall be payable forthwith upon demand therefor and shall bear interest at the rate applicable on the Indebtedness, compounded monthly until paid or may be added to the Indebtedness.

17. Assignment of Leases

The Chargor hereby assigns, transfers and sets over unto the Chargee its successors and assigns, all Leases now existing or hereafter made and the full benefit and advantage thereof and all rents and monies thereby reserved or payable thereunder and hereafter to become due and owing provided that so long as the Chargor is not in default hereunder all such rents and monies shall continue to be paid to the Chargor. The Chargor will execute and deliver to the Chargee, from time to time, upon the request of the Chargee and at the expense of the Chargor, assignments in registrable form of all Leases and rents relating to the Charged Premises and such other notices or documents as may be required by the Chargee. Nothing in this Charge shall make the Chargee responsible for the collection of rents payable under any Lease of the Charged Premises or any part thereof or for the performance of any covenants, terms or conditions contained in any such Lease. The Chargee shall be liable to account only for such rents as actually come into its hands after the deduction of collection charges in respect thereof and may apply such rents to the repayment of the Indebtedness.

18. Guarantee

The following provisions of this paragraph have force and effect only if a party signs this Charge as Guarantor.

The Guarantor, in consideration of such advance or advances as the Chargee may make under this Charge, and in consideration of the sum of ONE (\$1.00) DOLLAR now paid to the Guarantor by the Chargee, the receipt whereof is hereby acknowledged:

- (i) hereby covenants and agrees with the Chargee, as principal debtor and not as surety, to well and truly pay or cause to be paid to the Chargee the Indebtedness, Taxes and all other monies which the Chargor has by this Charge covenanted to pay to the Chargee or which are secured by this Charge or intended so to be secured, the said payments to be made on the days and times and in the manner provided for in this Charge;
- (ii) hereby further covenants and agrees to keep, observe and perform the covenants, terms, provisos, stipulations and conditions of this Charge which are to be kept, observed and performed by the Chargor and at all times to indemnify, protect and save harmless the Chargee from all loss, costs and damage in respect of the advances of the Charge money and every matter and thing contained in this Charge;
- (iii) further agrees that the Chargee may from time to time without notice extend the time for payment of all monies secured by this Charge, amend the terms and times of payment and the rate of interest with respect to the said monies, refrain from enforcing payment of the said monies, release any portion or portions of the Charged premises and waive or vary any of the covenants and conditions in this Charge to be kept observed and performed by the Chargor and grant any indulgence to the Chargor in respect of any default by the Chargor which may arise under this Charge, and that notwithstanding any such act by the Chargee, the Guarantor, shall be bound by the provisions of this Charge until all of the monies secured under this said Charge shall have been fully paid and satisfied;
- (iv) further acknowledges that the Chargee may at any time grant or refuse any additional credit to the Chargor, accept or release or renounce any collateral or other security, administer or otherwise deal with the Charged Premises described in this Charge, take an assignment of the rents and/or leases or any specific lease with respect to the Charged Premises and apply any and all monies at any time received from the Chargor or from any other person or from the proceeds of any securities given in connection with this Charge in any manner the Chargee may deem appropriate, and/or utilize any and all insurance proceeds in reduction of the Principal monies and interest secured by this Charge or for the refurbishing of the Charged Premises or in any other manner that the Chargee may in its absolute discretion deem advisable;
- (v) agrees that all of the matters mentioned herein may be performed by the Chargee without notice the Guarantor without releasing or in any modifying, altering, varying or in any way affecting the liability of the Guarantor herein; and
- (vi) agrees that all of the covenants and agreements of the Guarantor contained herein shall be binding upon the Guarantor and the Guarantor's respective successors and assigns and shall accrue to the benefit of the Chargee, its successors and assigns; and

- (vii) Agrees that the Guarantor's liability hereunder, if there are multiple persons named as Guarantor, and the liability of the Guarantor's or each Guarantor's successors and assigns, shall be joint and several.

19. Receiver

If the security hereby created shall become enforceable as herein provided and the Chargor shall have failed to pay the Chargee the amount declared to be due pursuant hereto, or otherwise in an Event of Default, the Chargee may in its discretion, appoint a receiver or manager or receiver and manager of Charged Premises, or any part thereof, and may remove any receiver or manager or receiver and manager so appointed by it and appoint another in its stead, and the following provisions shall take effect:

- (i) such appointment may be made at any time after the security shall have been enforceable and either before or after the Chargee shall have entered into or taken possession of the Charged Premises or any part thereof but such appointment shall be revoked upon the direction in writing of the Chargee;
- (ii) every such receiver or manager or receiver and manager may be vested with all or any of the powers and discretion of the Chargee and may take possession of the Charged Premises, lease all or any portion of the Charged Premises, collect all rents, issues, incomes and profits derived therefrom and realize upon any additional or collateral security granted by the Chargor to the Chargee and for that purpose may take any proceedings in the name of the Chargor or otherwise;
- (iii) such receiver or manager or receiver and manager may carry on the business of the Chargor or any part thereof and may exercise all the powers conferred upon the Chargee under this Charge;
- (iv) the Chargee may from time to time fix the remuneration of every such receiver or manager or receiver and manager provided that the remuneration shall be at existing commercial rates for such services and direct the payment thereof out of the Charged Premises or the proceeds thereof;
- (v) the Chargee may, from time to time, require any such receiver or manager or receiver and manager to give security for the performance of its duties and may fix the nature and amount thereof, but it shall not be bound to require such security;
- (vi) every such receiver or manager or receiver and manager may, with the consent in writing of the Chargee, borrow money for the purpose of carrying on the business of the Chargor or for the maintenance of the purposes approved by the Chargee and may issue certificates (herein called "**Receiver's Certificates**") for such sums as will in the opinion of Chargee be sufficient for obtaining upon the security of the Charged Premises the amounts from time to time required, and such may be payable at such time or times as the Chargee may determine, and shall bear interest as shall therein be declared, and the receiver or manager or receiver and manager or the Chargee may sell, pledge or otherwise dispose of the same in such manner as the Chargee may deem advisable, and may pay such commission on the sale thereof as to the Chargee may appear reasonable, and in the name of and as attorneys for the Chargor may hypothecate, Charge, pledge, charge or otherwise grant security upon the whole or any part of the Charged Premises, in priority over the security created hereunder, as security for the repayment of the monies borrowed upon such Receiver's Certificates, and interest thereon which security may be granted either at the time of or subsequent to the borrowing of the said monies, and the said monies shall be secured by the security created hereby and shall be a first charge upon the Charged Premises in priority to this Charge;
- (vii) save so far as otherwise directed by the Chargee, all monies from time to time received by such receiver or manager or receiver and manager shall be paid over to the Chargee to be held by it on the trust of this Charge;
- (viii) every such receiver or manager or receiver and manager shall so far as concerns responsibility for its acts and omissions be deemed the agent of the Chargor and not of the Chargee; and
- (ix) without restricting the generality of the foregoing, the Chargor irrevocably authorizes the Chargee to give instructions to the receiver or manager or receiver and manager relating to the performance of its duties as set out herein.

20. Chargee Managing Business

In an Event of Default, the Chargee may in its discretion by its officers, agents or attorneys, enter into and upon and take possession of all or any part of the Charged Premises, with full power to carry on, manage and conduct the business operations of the Chargor, including the power to borrow monies or advance its own monies for the purpose of such business operations, the maintenance and preservation of the Charged Premises or any part thereof, the payment of taxes, wages and other charges ranking in priority to this Charge and current operating expenses incurred not more than sixty (60) days prior to such taking of possession (and monies so borrowed or advanced shall be repaid by the Chargor on demand and until repaid shall, with interest thereon at the rate applicable on the Indebtedness, form a charge upon the Charged Premises in priority to this Charge) and to receive the revenues, incomes, issues, and profits of the Charged Premises and pay therefrom all its expenses, charged and advances in carrying on the said business operations or otherwise, and all taxes, assessments and other charges against the Charged Premises ranking in priority to this Charge, or payment of which may be necessary to preserve the Charged Premises together with interest thereon, and to apply the remainder of the monies so received, first in payment of Principal and then in payment of interest due and unpaid and interest thereon, provided that the Chargee shall, if it waives all Events of Default hereunder, restore the said property and business to the Chargor, and pay to it any balance of income so received after such payment of all amounts due to the Chargor, the security hereby constituted shall no longer be deemed to have become enforceable by reason of the Event of Default which theretofore existed, but the rights which may arise upon a subsequent Event of Default shall not be affected thereby.

21. Non-Merger

In case of any foreclosure proceedings or other proceedings to enforce the security hereby created, judgment may be entered against it in favour of the Chargee for any amount which may remain due in respect of this Charge and the interest thereon after the application of the payment of the proceeds of any sale of the Charged Premises or any part thereof. Neither the taking of any judgment nor the exercise of any power or seizure of sale shall operate to extinguish the liabilities of the Chargor to make payment of the Indebtedness hereby secured; nor shall the same operate as a merger of any covenant herein contained or affect the right of the Chargee to interest at the rate hereinbefore specified; nor shall the acceptance of any payment or other security operate as payment or novation of the Chargor's Indebtedness under this Charge or as a reduction of the charges and pledges hereby created, notwithstanding any law, usage or custom to the contrary, and it is further agreed that the taking of a judgment or judgments under provision of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and time as herein provided.

22. Dealing with Other Security

The security hereby constituted is in addition to and not in substitution for any other security for the Indebtedness now or hereafter held by the Chargee. The taking of any action or proceedings or refraining from so doing or any other dealings with any other security for the Indebtedness or the release or reconveyance of any such security or any part thereof to the person giving such security shall not release or affect the charge created by this Charge and the taking of the security hereby created shall not release or affect any other security held by the Chargee for the repayment of the Indebtedness. The Chargee is at liberty to take any action or proceedings separately or simultaneously with regard to this security, any additional security or any collateral security.

23. Permitted Encumbrances

If this Charge should, at any time, be subject to any Permitted Encumbrances, the Chargor will pay or caused to be paid as they become due all payments whether for principal, interest, Taxes or otherwise under or by virtue of the Permitted Encumbrances, and will otherwise observe, perform and comply with the covenant, provisions and agreements therein contained. Any default thereunder shall be deemed to be a default under this Charge and shall entitle the Chargee to exercise any and all remedies available to the Chargee in the Event of Default under the Charge. The Chargee may at its option make any payment or cure any default under the Permitted Encumbrances, and any such payment or cost incurred by the Chargee in curing such default shall be added to the Principal sum and shall bear interest at the rate applicable on the Indebtedness and shall be payable forthwith by the Chargor to the Chargee, and shall be secured by the Charge.

24. Demolition and Alterations

Other than in connection with the Project and in compliance with all provisions hereof and in the Financing Documents with respect thereto in the event any portion of the Indebtedness includes a Construction Loan, the Chargor shall not demolish all or any part of the Charged Premises without the prior written consent of the Chargee and the Chargor will not proceed with any substantial alteration, remodeling or rebuilding of or addition to any Fixtures or change in use of the Charged Premises without the prior written consent of the Chargee.

25. Expropriation

If the Charged Premises or any part thereof shall be expropriated by any government, authority or corporation with competent jurisdiction, all monies payable in respect of such expropriation shall be paid to the Chargee and, if received by the Chargor, shall be received in trust for the Chargee and forthwith paid over to the Chargee. Such monies shall, at the option of the Chargee, be applied against the Indebtedness or such part thereof as the Chargee may determine.

26. Extensions

This Charge may be renewed by any agreement in writing at maturity for any term with or without an increased interest rate notwithstanding that there may be subsequent Liens; and it shall not be necessary to register any such agreement in order to retain priority for this Charge so altered over any instrument registered subsequently to the Charge. Nothing contained in this paragraph shall confer any right of renewal upon the Chargor.

27. Discharge of Charge

Upon payment of the Indebtedness and all other amounts payable by the Chargor under this Charge (otherwise than by reason of this paragraph) or at any time when there is no indebtedness or liability of the Chargor to the Chargee, the Chargor may request in writing a discharge or an assignment of the Charge and upon payment of all Costs incurred by the Chargee for the preparation, execution and delivery of such discharge or assignment of the Charge (including the Chargee's usual fee for providing such services) the Chargee shall deliver such document to the Chargor. All such Costs are secured by this Charge.

28. Fixtures

The Chargor agrees that all Fixtures now or hereafter placed or installed upon the Lands shall, for all purposes of this Charge, be fixtures and an accession to the freehold and form part of the realty, whether or not affixed in law to the Lands. The Chargor shall diligently and continuously construct in a good and workmanlike manner any unfinished Fixtures and, in the event that any material amount of work is not done on such Fixtures for a period of twenty (20) consecutive days, the Chargee or its representatives may enter into the Charged Premises and do any or all work which they may consider necessary or desirable to complete such Fixtures or to protect the same from deterioration, at the Chargor's sole expense.

29. Notice

All payments, notices, demands, requests, approvals and consents which may be or are required to be given by either party to the other herein, shall be in writing and delivered or sent by prepaid registered mail to the parties at their respective addresses, as indicated in the applicable Computer Fields of this Chare. If any such payment, notice, demand, request, approval or consent is sent by prepaid registered mail, it shall be deemed to have been given on the third business day following the mailing thereof and if personally served shall be deemed to have been given on the date it was personally served.

30. Environmental Provisions

The provisions of this Section30,to the extent they are inconsistent with any other provisions of this Charge, shall prevail over any such other provisions:

(a) *Representations and Warranties.* The Chargor represents and warrants that as of the date hereof and continuously for so long as this Charge remains in place:

- (i) neither the Chargor, nor, to its knowledge, any other person, has ever caused or permitted any Hazardous Material to be disposed of, placed, or stored on, in, into, under or through the Charged Premises or any part thereof;
- (ii) its businesses and assets are operated in compliance with Environmental Laws;
- (iii) no enforcement or civil action in respect of any Environmental Law or liability related to an environmental matter is threatened or pending and the Chargor knows of no circumstances that may give rise to such actions in the future; and
- (iv) the Chargor has not received nor is subject to any notices or orders for violations of Environmental Laws or any claims or demands for remedial action or damages based upon any Environmental Laws and the Chargor knows of no circumstances that may give rise to such actions in the future.

(b) *Survival of Representations and Warranties.* The representations and warranties made above shall be deemed to be repeated as of the date of each advance under this Charge and shall survive the execution and delivery of this Charge and shall continue in full force and effect until this Charge is discharged, notwithstanding any investigation made at any time by or on behalf of the Chargee, provided that the Chargee may, at its discretion, waive any representation and warranty at any time. The Chargor shall notify the Chargee of any change to the representations and warranties set out above and the Chargee may, at its sole discretion, from time to time accept any such changes thereto of which it shall have been notified in writing by the Chargor or waive or vary the requirements for any of the representations and warranties set out above or any part of any representation or warranty, but the Chargee shall have no obligation to do so.

(c) *Further Covenants of Chargor.*

- (i) The Chargor shall use or cause to be used the Charged Premises in compliance with all Environmental Laws.
- (ii) The Chargor authorizes the Chargee to have access to the Charged Premises to conduct environmental inspections and to conduct all sampling and testing connected therewith, all at the sole expense of the Chargor.
- (iii) The Chargor authorizes the Chargee to make good faith inquiries with federal, provincial and municipal governmental agencies respecting environmental matters.
- (iv) The Chargor shall notify the Chargee of any change in use of the Charged Premises and any material change to production processes resulting in alteration to the discharge of contaminants, generation of wastes or to the presence of Hazardous Materials on the Charged Premises.
- (v) The Chargor shall, at the Chargee's request, provide the Chargee with a compliance certificate prior to each advance certifying compliance with all representations and warranties.
- (vi) If the Chargor:
 - A. receives notice that any violation of any Environmental Law or regulation may have been committed or is about to be committed by the Chargor;
 - B. receives notice that any administrative or judicial complaint or order has been filed or is about to be filed against the Chargor alleging violations of any Environmental Law or regulation or requiring the Chargor to take any action in connection with the release of any Hazardous Material; or
 - C. receives any notice from a federal, provincial or municipal government agency or private party alleging that the Chargor may be liable or responsible for costs associated with a response to or clean-up of any Hazardous Material or any damages caused thereby;

then the Chargor shall provide the Chargee with a copy of such notice within fifteen (15) days of the Chargor's receipt thereof. The Chargee may, at its option, but without any obligation to do so, take any action necessary to remedy any such violation or to comply with any such complaint or order or to undertake any such response or clean up, and any amounts paid as a result of such

action shall be immediately due and payable by the Chargor and shall be a charge upon the Charged Premises and shall bear interest in accordance with the provisions of this Charge. Within fifteen (15) days of the Chargor having learned of the enactment or promulgation of any Environmental Law or regulation which may result in any material adverse change in the condition, financial or otherwise, of the Chargor, the Chargor shall provide the Chargee with notice thereof.

(d) *Indemnity re Hazardous Materials.* The Chargor hereby indemnifies the Chargee, its officers, directors, employees, agents and its shareholders and agrees to hold each of them harmless from and against any and all losses, liabilities, damages, costs, expenses and claims of any and every kind whatsoever, including, without limitation:

- (i) the costs of defending and/or counterclaiming, cross-claiming or claiming over against third parties in respect of any action or matter; and
- (ii) any costs, liabilities or damages arising out of a settlement of any action entered into by the Chargee with the consent of the Chargor (which consent shall not be unreasonably withheld or delayed);

which at any time or from time to time may be paid, incurred or asserted against any of them for, with respect to, or as a direct result of, the presence on or under, or the discharge, deposit emission, leakage, spill or disposal from, the Charged Premises or into or upon any land, the atmosphere, or a watercourse, body of water or wetland, of any Hazardous Material; and furthermore, if the Chargee or its agents or any receiver, manager, receiver-manager, liquidator or similar person takes possession of any of the Charged Premises or any equipment owned by the Chargor or used by it in connection with the operation of its business (the "**Equipment**"), or commences proceedings with respect to any of the Charged Premises or any Equipment, the Chargor hereby indemnifies and agrees to save harmless each such person in the manner set out above except insofar as the losses referred to above are solely attributable to the acts of such person, it being understood that the indemnifications and agreements of the Chargor set out in this provision shall survive the satisfaction and release of any document providing a security interest in the Charged Premises or any Equipment and the payment and satisfaction of any Indebtedness hereunder; it being the intention that such indemnifications and agreements shall continue in full force and effect so long as the possibility of any such losses, liabilities, damages, costs, expenses or claims exists.

31. Condominium Properties

If any part the Charged Premises is a condominium unit within the meaning of the *Condominium Act* (Ontario) (the "**CA**"), then the provisions of this Section 31 shall apply, and to the extent they are inconsistent with any other provisions of this Charge, they shall prevail over any such other provisions:

(a) The Chargor shall promptly observe and perform all of its covenants, duties and obligations under or pursuant to the CA and the declaration, by-laws and rules of the condominium corporation created by registration of the declaration and the description relating thereto of which the condominium unit forms part (the "**Condominium Corporation**").

(b) The Chargor will pay promptly when due any and all contributions to common expenses and all other levies, charges and assessments made, assessed or levied by or on behalf of the Condominium Corporation payable in respect of, or charged to the owner of, the Charged Premises (all such common expenses, levies, charges, assessments are called "**unit charges**").

(c) Upon request by the Chargee from time to time, the Chargor shall provide satisfactory proof to the Chargee that all unit charges have been paid in full.

(d) If the Chargor does not pay any unit charges when due, then, without limiting any of other rights and remedies of the Chargee hereunder or otherwise at law or in equity, the Chargee may (but shall not obligated to do so) pay the same and the amount so paid shall be added to the Indebtedness and secured by this Charge and shall be payable forthwith to the Chargee upon demand.

(e) Promptly following receipt thereof, the Chargor shall deliver to the Chargee copies of every notice, assessment, request, claim or demand, notice of meeting and all other documentation or information of any kind relating to the condominium unit or the Condominium Corporation received by the Chargor so that the

Chargee receives them at least ten (10) days prior to the date that any response, payment or other action is required.

(f) Any default by the Chargor under this section (regardless of any action or proceedings taken or proposed by the Condominium Corporation) shall be an Event of Default under this Charge.

(g) The Chargor hereby irrevocably assigns to the Chargee, and irrevocably authorizes and empowers the Chargee to exercise, all rights of the Chargor as the owner of the Charged Premises to vote or to consent to all matters relating to the affairs of the Condominium Corporation, provided however that:

- (i) the Chargee may at any time and from time to time give notice in writing to the Chargor and to the Condominium Corporation that the Chargee does not intend to exercise the said right to vote or consent and in that event until the Chargee revokes such notice the Chargor may exercise the right to vote or consent in respect of all matters not requiring a unanimous resolution (any such notice may be for an indeterminate period of time or for a specific meeting or matter);
- (ii) the Chargee's right to vote and consent do not impose any obligation on the Chargee to consult with the Chargor as to the manner in which such right to vote or consent will be exercised or not exercised or to protect the Chargor's interests and the Chargee shall not be responsible for any exercise or failure to exercise the right to vote or consent; and
- (iii) neither this assignment and authorization in favour of the Chargee nor the exercise by the Chargee of the right to vote or consent shall constitute the Chargee a mortgagee in possession nor give rise to any liability on the part of the Chargee.

(h) This Charge includes a mortgage, charge, assignment and sublease in favour of the Chargee of any lease or rights to occupy any parking space or spaces in the Charged Premises demised to or reserved or designated for exclusive use by the Chargor or its condominium unit and of any lease or right to exclusive use of any common Charged Premises or special privileges in respect thereof granted to the Chargor or its condominium unit.

(i) Without limiting the obligations of the Chargor hereunder, the Chargor shall cause the Condominium Corporation to maintain the insurance required by this Charge with respect to all the Charged Premises which are governed by the CA for the benefit of the Chargee and shall cause the Condominium Corporation to comply fully with the terms of the required policies of insurance and the insurance provisions of the CA and the declaration, by-laws and rules of the Condominium Corporation.

(j) In addition to the Events of Default set out herein, it shall be an Event of Default if:

- (i) the government of the Charged Premises by the Condominium Corporation or any part thereof by the CA is terminated;
- (ii) a vote of the Condominium Corporation authorizes the sale of all or substantially of its property or assets or all or any part of its common elements which are all or any part of the Charged Premises, or if any part of such common elements of the Condominium Corporation is expropriated;
- (iii) the Condominium Corporation fails to comply with any provision of the CA or the declaration, by-laws or any of the rules of the Condominium Corporation;
- (iv) the Condominium Corporation fails to insure the condominium units and the common elements governed by it in accordance with the CA and declaration and by-laws of the Condominium Corporation; or
- (v) in the Chargee's opinion, the Condominium Corporation fails to manage its property and assets in a prudent and businesslike manner and in keeping with the highest standards for similar properties in the locality in which the Charged Premises are located.

32. Multi-Residential Properties

If any part the Charged Premises includes a multi-residential property, then the provisions of this Section 32 shall apply, and to the extent they are inconsistent with any other provisions of this Charge, they shall prevail over any such other provisions:

- (a) The Chargor represents and warrants with respect to the Charged Premises as follows:
 - (i) no demolition, conversion, renovation, repair or severance has taken place with respect to the Charged Premises;
 - (ii) there have been no increases in the rental rate charged for any residential rental unit or units on the Charged Premises except as disclosed in writing to the Chargee;
 - (iii) all rents charged with respect to the Charged Premises are lawful rents and all required rebates have been paid, all in accordance with Applicable Laws in respect of residential housing;
 - (iv) all required filings have been made and were timely, accurate and complete in accordance with Applicable Laws in respect of residential housing; and
 - (v) under Applicable Laws in respect of residential housing:
 - A. no applications, investigations or proceedings have been commenced or made; and
 - B. there are no outstanding orders or decisions made by any governmental authority with respect to the Charged Premises or any residential rental unit.
- (b) The Chargor hereby authorizes all governmental authorities having jurisdiction over residential housing to release to the Chargee or its solicitors any and all information contained in their files pertaining to the Charged Premises.
- (c) The Chargor shall comply with the provisions of all Applicable Laws while this Charge is continuing.
- (d) Any breach of this covenant or any material incorrectness of any of the representations and warranties hereinabove contained shall be an Event of Default under this Charge.
- (e) On request by the Chargee, the Chargor shall provide a statutory declaration by an officer or director of the Chargor that the above representations and warranties above are true and correct. The Chargor shall deliver to the Chargee on request all documents required to establish the legality of rents.

33. Construction Loans

If any part the Indebtedness includes a Construction Loan, then the provisions of this Section 33 shall apply, and to the extent they are inconsistent with any other provisions of this Charge, they shall prevail over any such other provisions:

- (a) Prior to the first advance of any Construction Loan, any subsequent advance or upon request by the Chargee, the Chargee shall be supplied with the following for its approval:
 - (i) final plans and specifications for the Project, and any amendments thereto with applicable certifications as to compliance with provincial and municipal requirements;
 - (ii) design criteria for the use of the Project;
 - (iii) compliance with all building codes and zoning regulations;
 - (iv) all applicable building, development, foundation and excavation permits;
 - (v) adequacy of structural, electrical and mechanical systems;
 - (vi) adequacy of the Project budget;
 - (vii) monthly construction draw schedule and cash flow projection forecasting the amount and time of the draw requests;

- (viii) feasibility of the Project being completed within the time frame contemplated;
- (ix) all required permits as determined by the Chargee, in its reasonable discretion;
- (x) satisfactory evidence of proper zoning in place to accommodate the proposed development of the Project by way of a planner/architect's opinion, in form and content satisfactory to the Chargee, prepared by a firm of architects acceptable to the Chargee accompanied by evidence of professional liability insurance in an amount acceptable to the Chargee, attesting that the Project as presently constructed and/or its contemplated development and construction as set out in the approved plans and specifications (and according to the Project budget), complies with all applicable construction, zoning and other governmental requirements;
- (xi) copies of all relevant plans, specifications, working drawings and budgets pertaining to construction and completion of the Project (collectively, the "**Project Documents**"); and
- (xii) a satisfactory title search, the cost of which, together with solicitor's fees and disbursements applicable thereto are for the account of the Chargor.

(b) All advances shall be supported by satisfactory inspection and draw certificates. The Chargor will maintain a segregated Project bank account to receive all advances of the Construction Loan(s). All requests for advances shall be accompanied by the written report (or a certificate in the Chargee's sole discretion) which shall include, at minimum, confirmation of each of the following which shall be satisfactory to the Chargee:

- (i) details of costs in place in reference to the approved budget;
- (ii) percentage complete;
- (iii) that the work to date is in accordance with the plans and specifications previously submitted to the Lender;
- (iv) cost to complete;
- (v) that the approved budget remains adequate to complete the Project;
- (vi) if applicable to the particular advance, confirmation of required equity;
- (vii) review all paid invoices, cheque runs and/or cancelled cheques in excess of such materiality threshold as may be set by the Chargee, to ensure that the funds from prior advances of the Construction Loan(s) are being utilized only in the Project; and
- (viii) estimated completion date.

(c) Accumulated advances shall at no time exceed the cost of work in place less holdbacks as required under the *Construction Act* (Ontario), and less Borrower's required equity. In addition, the cost to complete the Project shall at no time exceed the unadvanced portion of the Construction Loan(s).

(d) Each advance request shall be accompanied by a statutory declaration or declarations (or a certificate or certificates in the Chargee's sole discretion) from the Chargor declaring that all sub-trades associated with the Project, and all hard and soft costs then incurred, have been fully paid through the date of the last draw preceding the current request and that all proceeds are being used solely for payables pertaining to the Project. Such statutory declaration shall further declare there has been no change in the amount of the Project budget.

(e) The Chargee reserves the right to make progress advances directly to the contractor, sub-trades and/or suppliers of the Project if the Chargor is in default or if advances are being diverted from the Project.

34. Credit Union Membership

In the event the Chargor shall cease to be a member in good standing of the Chargee, the Chargee may, in its sole discretion and at any time following the said cessation of membership require the Chargor to pay, within three (3) months following said demand, the balance of the Indebtedness owing hereunder; and the interest rate applicable at the time of demand by the Chargee shall continue to be charged against the outstanding Indebtedness to the Chargee until payment in full is made by the Chargor.

35. Release of Information

The Chargor acknowledges that the Chargee may be obliged to release information relating to this Charge and the Indebtedness and any amounts advanced thereunder or secured hereby. The Chargor hereby authorizes the Chargee to release all such information and any other information it may, from time to time, be required to release by Applicable Law to those entitled to such information.

36. PPSA

The Chargor shall provide the Chargee with such third party comfort letters, postponement or discharges, as applicable, pursuant to the *Personal Property Security Act* (Ontario) (the "PPSA"), in form and substance as the Chargee shall require, with respect to all PPSA filings appearing to grant a priority under the PPSA to any third party. In addition, to the extent that any Chargor is not located in Ontario for conflicts purposes pursuant to the PPSA such matter shall be disclosed to the Chargee for credit purposes and in any event prior to the registration of the Charge.

37. Interpretation

(a) In this Charge (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders and non-gender references.

(b) The words "including", "includes" and "include" shall mean "including without limitation", "includes without limitation" and "include without limitation" respectively.

(c) Any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto.

(d) Any reference to any agreement or instrument shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto from time to time.

(e) Reference to the Chargee, Chargor, any beneficial owner of the Charged Premises, and any other person shall include their respective heirs, estate trustees, legal representatives, successors and assigns, and reference to a "corporation" shall include a company or other form of body corporate; (f) all dollar amounts are expressed in Canadian dollars.

(f) The division of this Charge into separate sections and subsections, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Charge.

(g) The words "Chargor" and "Chargee" shall be read and construed as "Chargor or "Chargors" or "Chargee or Chargees", respectively as the number of the party or parties referred to in each case require and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted.

(h) If more than one person is named as Chargor or Guarantor, or otherwise becomes liable for or assumes the obligations and liabilities of the Chargor, then the obligations and liabilities of all such persons shall be joint and several.

(i) Time shall be of the essence, and the times herein specified for the taking of certain action by the Chargor are in each case firm and shall not be extended without the written approval of the Chargee.

(j) All obligations of the Chargor in this Charge will be deemed to be covenants by the Chargor in favour of the Chargee.

(k) In the event of any conflict or inconsistency between any provision of this Charge and the provisions of any schedules to this Charge or the provisions of the Financing Documents, the Chargee, in its sole discretion, shall decide which provision shall prevail. Notwithstanding the foregoing, if this clause is deemed to be unenforceable by a court of competent jurisdiction, then the order of priority for enforcement shall be as follows: i) this Charge; ii) the provisions of any schedules to this Charge; iii) the provisions of the Financing Documents.

(l) The delivery of this Charge for registration n by direct electronic transmission shall have the same effect for all purposes as if this Charge was in written form, signed by the Chargor and delivered to the Chargee.

(m) Where there are multiple rates of interest applicable to the Indebtedness by reason of it become comprised of distinct loans, debts, tranches or otherwise, and these Standard Charge Terms refer to a rate of interest being chargeable on any amount becoming due hereunder based upon the rate which applies to the Indebtedness, the Chargee, in its sole discretion, shall decide which rate shall prevail.

(n) If any provision of this Charge is illegal or unenforceable it shall be considered separate and severable from the remaining provisions of this Charge which shall remain in force and be binding as though such provision had never been included.

(o) If any of the forms of words contained herein are also contained in Column One of Schedule B of the *Short Forms of Mortgages Act*, R.S.O. 1990 (the "**Short Forms of Mortgages Act**"), and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column Two of Schedule B of the said Act distinguished by the same number, and this Charge shall be interpreted as if the Short Forms of Mortgages Act were still in full force and effect. The implied covenants deemed to be included in the Charge by sections 7(1) 1. iii., and 7(1) 2. of the LRRRA are hereby varied by deleting therefrom the words "except as the records of the land registry office disclose" and substituting therefor "except Permitted Encumbrances". The implied covenant deemed to be included in the Charge by section 7(1) I. vii. of the LRRRA is hereby varied to provide that "the Chargor or the Chargor's successors will, before and after default, execute and deliver such further assurances of the Charged Premises and do such other acts, at the Chargor's expense, as may be required by the Chargee". The implied covenants deemed to be included in a charge under section 7(1) of the LRRRA are in addition to and shall not be interpreted to supersede or replace any of the covenants contained in this Charge which are covenants by the Chargor, for the Chargor and the Chargor's successors and assigns with the Chargee and the Chargee's successors and assigns. In the event of any conflict between any of the covenants implied by the LRRRA, and any other covenant or provision contained herein, the covenant or provision contained herein shall prevail.

(p) Notwithstanding the definition of the word "successor" in the LRRRA, the word "successor" as used in this Charge shall include an heir, executor, administrator, estate trustee, personal representative or successor.

(q) This Charge shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

(r) In this Schedule, the following terms shall have the following meanings:

- (i) "**Applicable Laws**" means all applicable federal, provincial or municipal laws, statutes, regulations, rules, by-laws, policies and guidelines, orders, permits, licences, authorizations and approvals.
- (ii) "**Bankruptcy Legislation**" means any present or future bankruptcy or insolvency legislation, including where applicable the *Bankruptcy and Insolvency Act* (Canada) and the *Companies' Creditors Arrangement Act* (Canada).
- (iii) "**Business Day**" means any day other than a Saturday, Sunday or any statutory or civic holiday observed in the Province of Ontario.
- (iv) "**Charge**" means the charge prepared in the electronic format and registered electronically pursuant to Part III of the LRRRA, including this Schedule and any other schedules thereto.
- (v) "**Charged Premises**" means the Lands, Fixtures and Improvements.
- (vi) "**Chargee**" means FirstOntario Credit Union Limited, or any successor or assignee to whom this Charge may be transferred or assigned, in whole or in part, or into which FirstOntario Credit Union Limited may be amalgamate, continued or reorganized.
- (vii) "**Chargor**" means the person or persons indicated in the Computer Field of the Charge entitled "**Chargor(s)**".
- (viii) "**Costs**" means all fees, costs, charges and expenses of the Chargee which are stated herein or in the Financing Documents to be collectable against or chargeable to the Chargor, or are said to form a charge upon the Charged Premises, or which are otherwise of and incidental to (a) the negotiation, preparation, execution and registration of the Charge and any other instruments connected therewith and every renewal or discharge thereof; (b) the collection of any amounts

payable hereunder, enforcement of any covenants contained herein and the realization of the security herein contained; (c) procuring or attempting to procure payment of any Indebtedness or any other amounts due and payable hereunder including foreclosure, power of sale or execution proceedings commenced by the Chargee or any other party; (d) any inspection required to be made of the Charged Premises, or review of plans, specifications and other documentation which may require the approval or consent of the Chargee; (e) all repairs and replacements required to be made to the Charged Premises; (f) the Chargee having to go into possession of the Charged Premises and secure, complete and equip the Fixtures or Improvements in any way in connection herewith; and (g) solicitors' costs, charges and expenses relating to any of the foregoing and any necessary examination of title to the Charged Premises. For greater certainty, Costs shall (i) extend to and include legal costs incurred by the Chargee; (ii) be payable forthwith by the Chargor; and (iii) be a charge on the Charged Premises. Costs include interest at the highest interest rate applicable to the Indebtedness on all such fees, costs, charges and expenses.

- (ix) **"Construction Loan(s)"** means Indebtedness advanced by the Chargee for construction of an Improvement.
- (x) **"Environmental Laws"** means Applicable Laws and licences and permits issued by governmental or regulatory authorities respecting the protection of the natural environment or human health (including, without limitation federal, provincial and municipal laws and regulations respecting the removal and disposal of asbestos and the discharge, deposit, emission, leakage, spill or disposal of any Hazardous Material.
- (xi) **"Fixtures"** includes all fixtures, buildings, erections, appurtenances, plants and improvements, fixed or otherwise, now or hereafter put on the Lands, including but not limited to all fences, furnaces, oil burners, water heaters, electric light fixtures, window blinds, screen and storm doors and windows, and all air-conditioning, plumbing, cooling, ventilating, cooking, refrigeration and heating equipment and all other apparatus and equipment appurtenant to the Charged Premises.
- (xii) **"Financing Documents"** means, collectively, the application for financing, commitments, credit agreements, loan agreements, promissory notes and other agreements signed between the Chargor and Chargee and/or their affiliates by which Indebtedness has been or will be advanced, and the other security documents and all other documents, instruments and agreements delivered in connection with the Indebtedness and Costs.
- (xiii) **"Hazardous Material"** means any contaminant, pollutant or waste and any substance that when released into the natural environment is likely to cause at some immediate or future time, material harm or degradation to the natural environment or material risk to human health and without restricting the generality of the foregoing, includes any contaminant, pollutant, waste, hazardous waste or dangerous goods as defined by applicable federal, provincial or municipal laws or regulations enacted for the protection of the natural environment or human health.
- (xiv) **"Improvement"** includes any construction, installation, alteration, addition, repair or demolition to any part of the Charged Premises.
- (xv) **"Indebtedness"** means all obligations, debts and liabilities, whether present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed now or at any time hereafter owing by the Chargor to the Chargee, whether as principal or surety, whether alone or jointly with any other person and in whatever name, style or form, whether otherwise secured or not and whether arising from dealings between the Chargee and the Chargor or from other dealings or proceedings by which the Chargee may become a creditor of the Chargor and whether the same are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, and all interest, compound interest, damages and Costs, and all premiums of insurance upon the Improvements and Fixtures, Taxes and other amounts paid by the Chargee in accordance with the provisions of this Charge.
- (xvi) **"Interest Adjustment Date"** means the amount indicated in the Computer Field of the Charge entitled "Interest Adjustment Date".

- (xvii) **“Lands”** means the lands and premises described in the Computer Field of the Charge entitled **“Properties”**.
- (xviii) **“Lease”** means all and any present and future leases and agreements to lease of the whole or any portion of the Lands or of the whole or any part of the Fixtures and all and any present or future licences whereby the Chargor (or any authorized representative of the Chargor) gives any other person the right to use or occupy the whole or any part of the Charged Premises, in each case for the time being in effect, and all revisions, alterations, modifications, amendments, extensions, renewals, replacements or substitutions thereof or therefor which may hereafter be effected or entered into, but do not include registered easements or rights in the nature of easements.
- (xix) **“Lien”** means any mortgage, charge, pledge, hypothec, assignment, lien, lease, sublease, easement, preference, priority, trust or other security interest or encumbrance of any kind or nature whatsoever with respect to any property or asset, including any title reservations, limitations, provisos or conditions.
- (xx) **“LRRRA”** means the *Land Registration Reform Act* (Ontario).
- (xxi) **“Mortgages Act”** means the *Mortgages Act* (Ontario).
- (xxii) **“Permitted Encumbrances”** means a standard municipal development agreements, municipal or utility easements; and (b) any other Liens disclosed by the registered title to the Lands provided the same (i) do not, in the Chargee’s opinion, in the aggregate, materially impair the development, management, ownership, operation, value or marketability of the Charged Premises or any part thereof; (ii) are materially complied with by the Chargor and the Charged Premises; (iii) do not, in the Chargee’s opinion, pose any threat to the Charged Premises; and (iv) are permitted pursuant to the Financing Documents.
- (xxiii) **“person”** means any individual, general or limited partnership, joint venture, sole proprietorship, corporation, unincorporated association, trust, trustee, estate trustee, legal representative or governmental authority.
- (xxiv) **“Prime”** and **“Prime Rate”** when referred to in the Computer Field of the Charge entitled **“Interest Rate”** means the annual rate of interest announced from time to time by FirstOntario Credit Union Limited (**“FCU”**) as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada and designated by the Chargee as its prime rate.
- (xxv) **“Principal”** means the amount indicated in the Computer Field of the Charge entitled **“Principal”**.
- (xxvi) **“Project”** means any Improvement the funding of which is a purpose of any of the Indebtedness advanced by the Chargee.
- (xxvii) **“Purpose”** means any permitted and acknowledged (pursuant to the Financing Documents) purpose for which Indebtedness has been or will be advanced by the Chargee.
- (xxviii) **“Taxes”** means all taxes, rates and other impositions whatsoever which are now or may hereafter be imposed, charged or levied by any authority creating a lien or charge on the Charged Premises or any part thereof.
- (xxix) **“Transfer”** means (a) any conveyance, assignment, transfer, sale, granting or creation of an option or trust with respect to, or other disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) any legal or beneficial interest in the Charged Premises or any part thereof; (b) any change in the effective voting control of any person comprising the Chargor or any beneficial or unregistered owner of any part of the Charged Premises from that existing as of the date of this Charge (including any change of ownership of 50% or more of the voting securities representing an interest in any such person); or (c) any amalgamation, change of name, continuance or other manner of reorganization or restructuring of the existence of the Chargor; and shall include any agreement to do or complete any of the matters referred to in (a), (b) or (c) above.

(xxx) **“Computer Field”** in this Charge means a computer data entry field in a charge registered pursuant to Part III of the *Land Registration Reform Act* (Ontario) into which the terms and conditions of this Charge may be inserted.

**FirstOntario Credit Union Limited,
by its solicitor**

Per:



Name: Danielle Iampietro