

**Properties**

**PIN** 03311 - 1065 LT **Interest/Estate** Fee Simple  
**Description** PT LOT 6, CON 8 PTS 1 TO 13 65R18522 EXCEPT PTS 4,5 & 6, 65R24437;  
 VAUGHAN; T/W VA37896, VA63377, R717713; VAUGHAN; T/W EASE OVER PT  
 COMMON ELEMENTS PT 1, 65R20425 AS IN LT1434473. S/T R275852.  
**Address** 5770 AND 5780 HIGHWAY NO. 7  
 VAUGHAN

**Chargor(s)**

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

**Name** ROYAL AGINCOURT CORP.  
**Address for Service** c/o Walton Associates  
 30 Hazelton Avenue  
 Toronto, Ontario, Canada M5R 2E2

I, Norma Walton, President, have the authority to bind the corporation.  
 This document is not authorized under Power of Attorney by this party.

**Chargee(s)****Capacity****Share**

**Name** THE EQUITABLE TRUST COMPANY  
**Address for Service** c/o Harbour Mortgage Corp.  
 36 Toronto Street, Suite 500  
 Toronto, Ontario M5C 2C5

**Statements**

Schedule: See Schedules

**Provisions**

**Principal** \$11,600,000.00 **Currency** CDN  
**Calculation Period** monthly, not in advance  
**Balance Due Date** 2013/01/01  
**Interest Rate** 5.69% per annum  
**Payments** \$55,003.33  
**Interest Adjustment Date** 2012 01 01  
**Payment Date** interest only on the first day of each month  
**First Payment Date** 2012 02 01  
**Last Payment Date** 2013 01 01  
**Standard Charge Terms** 200033  
**Insurance Amount** full insurable value  
**Guarantor** NORMA WALTON AND RONAULD WALTON

**Signed By**

Leonard David Rodness 1500-151 Yonge St. acting for Chargor Signed 2011 12 16  
 Toronto (s)  
 M5C 2W7

Tel 4168631188

Fax 4168630305

I have the authority to sign and register the document on behalf of the Chargor(s).

**Submitted By**

TORKIN MANES LLP 1500-151 Yonge St. 2011 12 16  
 Toronto  
 M5C 2W7

**Submitted By**

Tel 4168631188

Fax 4168630305

**Fees/Taxes/Payment**

Statutory Registration Fee \$60.00

Total Paid \$60.00

**File Number**

Chargee Client File Number : 17349.0144

## SCHEDULE - PAGE 1

### 1. STANDARD CHARGE TERMS

The terms contained in this schedule are in addition to the terms contained in the Standard Charge Terms. In the event of any conflict between the terms contained in this schedule and those contained in the Standard Charge Terms, the terms contained in this schedule shall, to the extent of the conflict, prevail. If the Standard Charge Terms or the Charge refer to a Guarantor, the term "Guarantor" shall include any party named anywhere in the Charge as a guarantor or covenantor.

### 2. SHORT FORMS OF MORTGAGES ACT

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. 1980, Ch. 474 ("SFMA") and distinguished by a number therein, the Charge shall be deemed to include and shall have the same effect as if the Charge contained the form of words in Column Two of Schedule B of the SFMA distinguished by the same number, and the Charge shall be interpreted as if the SFMA was still in full force and effect. The provisions of the Charge and its short form clauses shall not derogate from the Chargee's rights under the long clauses in the SFMA which shall be in addition thereto or in substitution for part or parts thereof as the Chargee may elect and all shall have the force of covenant.

### 3. DEFINITIONS

In this schedule, the following definitions apply:

- (a) **Balance Due Date** means the date set out in the Provisions section of the Charge under the heading "Balance Due Date";
  - (b) **Charge** means the Charge/Mortgage to which this Schedule is attached and including the Standard Charge Terms and including this schedule;
  - (c) **Chargee** means each party named as a chargee or mortgagee in the Charge under the "Chargee(s)" section and its or his heirs, executors, administrators, successors and assigns, as the case may be;
  - (d) **Chargor** means each party named as a chargor or mortgagor in the Charge under the "Chargor(s)" section and its or his heirs, executors, administrators, successors, and assigns, as the case may be;
  - (e) **Commitment Letter** means the letter issued by the Chargee or the Chargee's agent dated November 25, 2011, and addressed to the Chargor or the Chargor's agent setting out the terms of the loan secured by the Charge, as it may be amended from time to time;
  - (f) **Costs** means all of the fees, costs, charges, losses, damages and expenses incurred by the Chargee as a direct or indirect consequence of granting the loan secured by the Charge including, without limitation, all expenses incurred in the construction, preservation, maintenance, repair, insuring and realization of the security contained herein, and all legal costs incurred by the Chargee as between a solicitor and his own client;
  - (g) **Covenantor** means each party named as a guarantor in the Provisions section of the Charge and each Covenantor's heirs, executors, administrators, successors and assigns, as the case may be;
  - (h) **Interest** means interest at the Interest Rate calculated monthly, not in advance, and payable on the Principal Amount and such other amounts as provided in the Charge both before and after maturity, default, and judgment;
  - (i) **Interest Adjustment Date** means the date set out in the Provisions section of the Charge under the heading "Interest Adjustment Date";
  - (j) **Interest Rate** means the interest rate per annum set out in the Provisions section of the Charge under the heading "Interest Rate";
-

- (k) **Land Registry Office** means the Land Registry Office in which this Charge is registered;
- (l) **Monthly Payments** means the payments made each month in the amount set out in the Provisions section of the Charge under the heading "Payments";
- (m) **Principal Amount** means the principal amount in lawful money of Canada set out in the Provisions section of the Charge under the heading "Principal" as it may be increased or decreased prior to registration of a discharge of the Charge;
- (n) **Property** means the lands described in the Properties section of the Charge and all buildings, fixtures and improvements now or hereafter brought or erected thereon;
- (o) **Receiver** means a receiver or receiver-manager of the Property; and
- (p) **Standard Charge Terms** means the set of Standard Charge Terms referred to in the Provisions section of the Charge under the heading "Standard Charge Terms".

#### 4. CHARGE

Upon the request of the Chargee, the Chargor hereby gives the Charge and charges the Property as security for full payment to the Chargee of the Principal Amount, Interest and all other amounts payable hereunder and as security for the observance and performance of all of the obligations of the Chargor to the Chargee pursuant to the Charge or otherwise.

#### 5. MONTHLY PAYMENTS

Interest on the Principal Amount from time to time advanced prior to the Interest Adjustment Date, computed from the respective dates of such advances to the Interest Adjustment Date, shall, at the option of the Chargee, be deducted from the advances or paid by the Chargor at such time or times as the Chargee may require and such Interest may be so deducted or paid in advance; after the Interest Adjustment Date, interest on the Principal Amount with Interest computed from the Interest Adjustment Date, shall become due and be paid in Monthly Payments as provided in the Charge and the balance, if any, of the Principal Amount and Interest shall become due and payable on the Balance Due Date. The Monthly Payments, when received, shall be applied firstly to outstanding Costs, secondly to outstanding Interest and the balance, if any, in reduction of the outstanding Principal Amount.

#### 6. CHARGOR'S COVENANTS

The Chargor covenants with the Chargee:

- (a) that the Chargor has a good title in fee simple to the Property except as the records of the Land Registry Office disclose;
- (b) that the Chargor will execute such further assurances of the Property as may be requisite; and
- (c) that the Chargor does hereby release to the Chargee all of the Chargor's claims upon the Property.

#### 7. TAXES

The Chargor shall, if it is in default of its obligation to pay Taxes as set out herein and if required by the Chargee, pay to the Chargee monthly on each payment date hereunder, 1/12th of the amount (as estimated by the Chargee) of all taxes, rates and assessments, municipal, local, parliamentary or otherwise, which affect the Property ("Taxes") payable within one year following the Chargee's request and the Chargor hereby authorizes the Chargee to remit such amounts to pay such Taxes. The Chargee shall pay interest to the Chargor, on the date or dates and at a rate or rates, from time to time determined by the Chargee, on the amount of such payments by the Chargor to the Chargee from the date such payments are received by the Chargee until the Taxes are paid. If the Chargee does not require the Chargor to pay the Taxes to the Chargee as herein provided, the Chargor shall pay to the relevant taxing authority all Taxes when due and, upon the Chargee's request, the Chargor shall deliver to the Chargee within seven (7) days evidence of payment of Taxes.

## 8. COSTS

Costs shall be forthwith due and payable by the Chargor to the Chargee and shall bear Interest until fully paid.

## 9. INSURANCE PROVISIONS

- (a) In addition to the insurance provided for under the Standard Charge Terms, the Chargor, in accordance with the provisions of this paragraph, shall maintain insurance against the perils therein described on all chattels used on, in or about the Property and shall maintain boiler and machinery insurance, builder's risk insurance and such other insurance as may be reasonably required by the Chargee including loss of rental income insurance on a one hundred percent (100%) basis. The fire insurance on the buildings and chattels on the Property shall contain a standard extended coverage endorsement of one hundred percent (100%) replacement cost or the full insurable value, whichever shall be the greater, but in no event less than the Principal Amount and shall contain the standard mortgage endorsement clause (IBC 3000). All policies must allow for partial occupancy. The Chargor shall also maintain comprehensive public liability coverage for a minimum of FIVE MILLION DOLLARS (\$5,000,000.00) per each occurrence. No insurance may be subject to a co-insurance clause.
- (b) The Chargor shall provide upon the anniversary date of the Charge or at such further time or times as requested by the Chargee written evidence of the existence and continuation of the insurance as required by the Charge.
- (c) In the event that evidence of continuation of insurance as herein required has not been delivered to the Chargee, the Chargee shall be entitled to a servicing fee for each written enquiry which the Chargee shall make to the insurers pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage in accordance with this provision, the Chargee, in addition to the aforementioned servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

## 10. SALE OF PROPERTY

The Chargor covenants and agrees with the Chargee that in the event of the Chargor selling, conveying, transferring or entering into an agreement for sale or transfer of title of the Property hereby charged to a purchaser or transferee not approved, in writing, by the Chargee, all monies hereby secured with accrued interest thereon shall at the option of the Chargee, forthwith become due and payable.

## 11. NO PREPAYMENT PRIVILEGE

The Chargor shall have no privilege of prepaying the whole or any part of the Principal Amount prior to maturity.

## 12. DANGEROUS SUBSTANCES

To the best of the Chargor's knowledge, the Chargor represents and warrants that there are not in, on, under or about the Property, or any part thereof, any Dangerous Substances as defined herein, and neither the Property nor any adjacent lands have ever been used as or for a waste disposal or coal gasification site, nor have they ever contained any underground storage tanks and the use of the Property has not involved and will not involve, during the term of the Charge, the handling of Dangerous Substances nor will such use result in any environmental damage, and there are no outstanding or threatened claims or work orders against the Property relating to environmental matters. "Dangerous Substances" means any contaminants, toxic, dangerous or hazardous substances including, without limitation, urea formaldehyde foam insulation, asbestos fireproofing insulation, polychlorinated byphenyls (PCBs) or radioactive materials.

## 13. HAZARDOUS WASTE

In consideration of the advance of funds by the Chargee, the Chargor and the Covenantor hereby agree that, in addition to any liability imposed on the Chargor and Covenantor under any

instrument evidencing or securing the loan indebtedness, the Chargor and Covenantor shall be jointly and severally liable for any and all of the costs, expenses, damages or liabilities of the Chargee, its directors and officers (including, without limitation, all reasonable legal fees) directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Property of any hazardous or noxious substances and such liability shall survive foreclosure of the security for the Charge and any other existing obligations of the Chargor and Covenantor to the Chargee in respect of the Charge and any other exercise by the Chargee of any remedies available to it for any default under the Charge.

#### **14. ENVIRONMENTAL CLAUSE**

The Chargee or agent of the Chargee may, at any time, before and after default, and for any purpose deemed necessary by the Chargee or its agent, enter upon the Property to inspect the land and buildings thereon. Without in any way limiting the generality of the foregoing, the Chargee or its agent may enter upon the Property to conduct any environmental testing, site assessment, investigation or study deemed necessary by the Chargee or its agent and the reasonable cost of such testing, assessment, investigation or study, as the case may be, with interest at the Interest Rate, shall be payable by the Chargor forthwith and shall be a charge upon the Property. The exercise of any of the powers enumerated in this clause shall not deem the Chargee or its agent to be in possession, management or control of the Property.

#### **15. CONSTRUCTION LIEN ACT**

The Chargor warrants that no monies secured by the Charge are or will be used to finance an improvement to the Property including, without limitation, any alteration, addition or repair to the Property or any construction, erection or installation thereon.

#### **16. PROPERTY MANAGEMENT**

The Chargor shall maintain at all times professional property management for the Property acceptable to the Chargee. Any change in the property management of the Property shall be subject to the prior approval of the Chargee, both as to the manager and the terms and conditions of the management agreement.

#### **17. INSPECTION**

The Chargee, its agents and employees shall have the right to enter upon the Property at all reasonable times to inspect and the costs of such inspections shall be forthwith payable by the Chargor to the Chargee.

#### **18. SURVIVAL OF COMMITMENT LETTER**

The agreements, covenants, representations, warranties, provisions and stipulations (in this section collectively referred to as "provisions") contained in the Commitment Letter form an integral part of the Charge and all such provisions shall be deemed to be contained in the Charge and have the same force and effect as if they were fully set forth herein. To the extent that any provision or provisions of the Commitment Letter conflict with any provision or provisions of the Charge, to the extent only of the conflict, the Chargee shall elect which provisions apply.

#### **19. SUBSEQUENT FINANCING**

The Chargor agrees that no subsequent encumbrances may be placed on the Property without the prior written consent of the Chargee, which consent shall not be unreasonably withheld.

#### **20. EVENTS OF DEFAULT**

The Chargor at the sole option of the Chargee shall be in default under the Charge if any one or more of the following events of default (an "Event of Default") occurs at any time or times prior to registration of a complete discharge of the Charge:

- (a) the Chargor defaults under any one or more of the covenants, conditions, terms, agreements, provisions and obligations contained in the Charge to be kept, observed and performed by the Chargor;

- (b) the Chargor becomes insolvent, bankrupt or a trustee in bankruptcy is appointed for the Chargor or the Chargor makes a general assignment for the benefit of creditors or goes into liquidation either voluntarily or under an order of the court of competent jurisdiction or otherwise acknowledges his insolvency;
- (c) there is shown to be any discrepancy or inaccuracy in any written information, statement, warranty or representations made or furnished to the Chargee by or on behalf of the Chargor or Covenantor with respect to the Property or the Chargor's or any Covenantor's financial condition and if such discrepancies or inaccuracies are material in the opinion of the Chargee;
- (d) any charge or encumbrance affecting the Property is in default;
- (e) the Chargor obtains subsequent financing or refinancing of the Property without the prior written consent of the Chargee;
- (f) the Chargor defaults under any one or more covenants, conditions, terms, agreements, provisions and obligations contained in any document, including the Environmental Indemnity delivered by the Chargor to the Chargee contemporaneously with this Charge, submitted to the Chargee by or on behalf of the Chargor in connection with the Charge;
- (g) the Chargor sells, conveys or transfers the Property or enters into an agreement to effect any of the foregoing without the prior written consent of the Chargee;
- (h) upon the death of the Chargor or one or more of the Covenantors;
- (i) any or all of the shares issued and outstanding in the capital stock of the Chargor are directly or indirectly transferred, pledged, encumbered, hypothecated or dealt with in any manner whatsoever without the Chargee's prior written consent or the Chargee determines, in its sole and unfettered discretion, that there is a change in control of the Chargor which has occurred without the Chargee's prior written consent;
- (j) there is litigation or any other proceeding, application, claim or action pending or threatened before any court, administrative board, or other tribunal which, if determined adversely to the Chargor or Covenantor, in the sole opinion of the Chargee, acting reasonably, would materially affect the Property, the financial condition of the Chargor, Covenantor or the value of the Property;
- (k) there is rendered against the Chargor a final judgment, order or decree for the payment of money which, in the sole opinion of the Chargee, will materially affect the Property, the financial condition of the Chargor or Covenantor or the value of the Property;
- (l) any material changes, additions or alterations are made to the Property, including material changes in usage, without the prior written consent of the Chargee; or
- (m) the Chargor is in contravention of the *Residential Tenancies Act* or any predecessor and/or successor legislation thereto which contravention materially affects the value of the Property.

If any of the foregoing Events of Default shall occur then, notwithstanding the provisions of any other agreement between the Chargor and the Chargee and at the option of the Chargee, the whole of the Principal Amount and Interest and all other amounts payable hereunder shall immediately become due and payable and the Chargee shall be relieved of any further obligations to advance monies to the Chargor. If an Event of Default is waived by the Chargee, such waiver shall not operate as a waiver of any other, further or continuation of the same Event of Default.

## 21. RIGHT TO DISTRAIN

The Chargee may distrain for arrears of any portion of the Principal Amount, Interest or any other amounts due and unpaid hereunder. The Chargor waives all rights to claim exemption and confirms that there is no limit in the amount for which the Chargee may distrain.

## 22. APPOINTMENT OF RECEIVER

- (a) At any time after the security hereby constituted becomes enforceable, or the Principal Amount shall have become payable, the Chargee may from time to time appoint by writing a Receiver or a Receiver-Manager, as it shall elect (hereinafter called "Receiver"), with or without Bond, and may from time to time remove the Receiver and appoint another in his stead, and any such Receiver appointed hereunder shall have the following powers:
- (i) To take possession of the Property and to collect and get in the same and for such purpose to enter into and upon any lands, buildings and premises wheresoever and whatsoever and for such purpose to do any act and take any proceedings in the name of the Chargor or otherwise as he shall deem necessary;
  - (ii) To carry on or concur in carrying on the business of the Chargor, and to employ and discharge agents, workmen, accountants and others upon such terms and with such salaries, wages or remuneration as he shall think proper, and to repair and keep in repair the Property and to do all necessary acts and things for the carrying on of the business of the Chargor and the protection of the Property of the Chargor;
  - (iii) To sell or lease or concur in selling or leasing any or all of the Property, or any part thereof, and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Chargor or otherwise; and any such sale may be made either at public auction or private sale as seen fit by the Receiver and any such sale may be made from time to time as to the whole or any part or parts of the Property; and he may make any stipulations as to title or conveyance or commencement of title or otherwise which he shall deem proper; and he may buy or rescind or vary any contracts for the sale of any part of the Property and may resell the same; and he may sell any of the same on such terms as to credit or part cash and part credit or otherwise as shall appear in his sole opinion to be most advantageous and at such prices as can reasonably be obtained therefor and in the event of a sale on credit neither he nor the Chargee shall be accountable for or charged with any monies until actually received;
  - (iv) To make any arrangement or compromise which the Receiver may think expedient in the interest of the Chargee and to consent to any modification or change in or omission from the provisions of the Charge and to exchange any part or part of the Property for any other property suitable for the purposes of the Chargee and upon such terms as may seem expedient and either with or without payment or exchange of money or regard to the equality of the exchange or otherwise;
  - (v) To borrow money to carry on the business of the Chargor and to charge the whole or any part of the Property in such amounts as the Receiver may from time to time deem necessary and in so doing the Receiver may issue certificates that may be payable when the Receiver thinks expedient and shall bear interest as stated therein and the amounts from time to time payable under such certificates shall charge the Property in priority to the Charge;
  - (vi) To execute and prosecute all suits, proceedings and actions which the Receiver in his opinion considers necessary for the proper protection of the Property, to defend all suits, proceedings and actions against the Chargor or the Receiver, to appear in and conduct the prosecution and defense of any suit, proceedings or action then pending or thereafter instituted and to appeal any suit, proceeding or action;
  - (vii) To execute and deliver to the purchaser of any part or parts of the Property, good and sufficient transfer or transfers for the same, the Receiver hereby being constituted the irrevocable attorney of the Chargor



for the purpose of making such sale and executing such transfer or transfers, and any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Chargor, and all other persons claiming the Property or any part thereof by, from, through or under the Chargor, and the proceeds of any such sale shall be distributed in the manner hereinafter provided.

- (b) It is agreed that no purchaser at any sale purporting to be made in pursuance of the aforesaid power or powers shall be bound or concerned to see or inquire whether any default has been made or continued, or whether any notice required hereunder has been given, or as to the necessity or expediency of the stipulations subject to which such sale shall have been made, or otherwise as to the propriety of such sale or regularity of its proceedings, or be affected by notice that no such default has been made or continues, or notice given as aforesaid, or that the sale is otherwise unnecessary, improper or irregular; and notwithstanding any impropriety or irregularity or notice thereof to such purchaser, the sale as regards such purchaser shall be deemed to be within the aforesaid power and be valid accordingly and the remedy (if any) of the Chargor, or of any party claiming by or under the Chargor, in respect of any impropriety or irregularity whatsoever in any such sale shall be in damages only.
- (c) The revenue of the business of the Chargor and the net proceeds of any sale of the Property or part or parts thereof shall be applied by the Receiver subject to the claims of any creditors ranking in priority to the Charge:
  - (i) Firstly, in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by him of all or any of the powers aforesaid including the reasonable remuneration of the Receiver and all amounts properly payable by him;
  - (ii) Secondly, in payment of all Costs;
  - (iii) Thirdly, in payment to the Chargee of the Principal Amount hereunder;
  - (iv) Fourthly, in payment to the Chargee of all Interest, arrears of Interest and any other monies remaining unpaid hereunder;
  - (v) Fifthly, any surplus shall be paid to the Chargor provided that, in the event that any party claims a charge against all or a portion of the surplus, the Receiver shall make such disposition of all or a portion of the surplus as the Receiver deems appropriate in the circumstances.
- (d) The Chargee shall not be liable to the Receiver for his remuneration costs, charges or expenses, and the Receiver shall not be liable for any loss howsoever arising unless the same shall be caused by his own negligence or wilful default; and he shall, when so appointed by notice in writing pursuant hereto, be deemed to be the agent of the Chargor and the Chargor shall be solely responsible for his acts and defaults and for his remuneration.

### **23. CHARGE NOT A CHARGE IN POSSESSION**

It is agreed that the Chargee, in exercising any of its rights under the Charge, shall be deemed not to be a chargee in possession or a mortgagee in possession of the Property.

### **24. SPECIFIC ASSIGNMENT OF LEASES**

As further security for the Charge, the Chargor covenants and agrees to grant to the Chargee upon thirty (30) days prior written notice from the Chargee to the Chargor, a specific assignment of any lease or leases of part or all of the Property.

### **25. ADDITIONAL SECURITY**

In the event that the Chargee, in addition to the Property, holds or shall hold, in the future, further security on account of the Principal Amount, it is agreed that no single or partial exercise of any of the Chargee's powers under the Charge or any of such further security (the Charge and

---

any such further security are hereinafter together referred to as the "Security"), shall preclude other and further exercise of any other right, power or remedy pursuant to the Security. The Chargee shall at all times have the right to proceed against all, any or any portion of the Security in such order and in such a manner as the Chargee shall, in the Chargee's sole and unfettered discretion, deem fit without waiving any rights which the Chargee might have with respect to the Security and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor under the remaining Security.

#### **26. FINANCIAL STATEMENTS**

As long as there is any amount owing by the Chargor to the Chargee pursuant to the Charge, the Chargor shall deliver to the Chargee:

- (a) within 120 days after the end of each fiscal year of the Chargor, or within 120 days after the end of each calendar year, if applicable or if the Chargor is an individual, or more often if requested by the Chargee, review engagement financial statements of the Chargor including a separate income and expense statement for the Property, an operating statement and an updated rent roll containing relevant lease terms for the Property, all satisfactory to the Chargee in form and content;
- (b) a review engagement financial statement within 120 days after the end of each fiscal year of each corporate Covenantor, or more often if requested by the Chargee, and, in the case of each individual Covenantor, a personal net worth statement within 120 days after the end of each calendar year, or more often, if requested by the Chargee, such statements to be in form and content satisfactory to the Chargee; and
- (c) as soon as reasonably possible, such further information as the Chargee may reasonably require from time to time.

#### **27. CHANGES AND ALTERATIONS**

The Chargor covenants and agrees that any major changes to the Property including, without limitation, major changes in easements and in the structures forming part of the Property, shall not be commenced without first obtaining the Chargee's written approval. The Chargor covenants and agrees that, during the course of any work being performed on the Property, such work shall proceed in a diligent manner and shall not be stopped for more than ten consecutive days before recommencing on an ongoing basis failing which the Chargee shall be entitled, but not obliged, to proceed with such work and any expenses incurred by the Chargee shall be deemed a Cost hereunder.

#### **28. FURTHER ASSURANCES**

The Chargor shall, at any time and from time to time, make, execute and deliver or cause to be made, executed and delivered to the Chargee such further and other reasonable acts, deeds, mortgages, charges, conveyances and assurances as may be required to fully and essentially carry out the true intention and meaning of the Charge and the costs to the Chargee, if any, of obtaining such further assurances shall be forthwith paid by the Chargor to the Chargee. No amendment, approval, waiver or consent relating to this Charge shall be valid unless same is in writing and executed by the Chargee.

#### **29. PAYMENT AFTER DEFAULT**

After default in the payment of part or all of the Principal Amount, the Chargee shall not be required to accept payment in satisfaction of the outstanding Principal Amount without, in addition to all monies payable under the Charge, a bonus equal to 3 months' Interest in advance on the Principal Amount outstanding. The Chargor shall not be entitled to a discharge of the Charge without payment of such bonus or 3 months' written notice of such payment in lieu thereof. Nothing in this section shall, however, affect or limit the right of the Chargee to recover by action or otherwise the Principal Amount in arrears.

### 30. SALE BY CHARGOR

No sale or other dealing by the Chargor with the Property or any part thereof shall in any way change or affect the liability of the Chargor hereunder, or in any way alter the rights of the Chargee as against the Property, the Chargor or any other person or persons liable for payment of the Principal Amount.

### 31. PAYMENTS AND FEES

Payments shall be made by pre-authorized direct deposit.

In the event that any of the Chargor's cheques or payments are not honoured when presented for payment, or any payment is not made when required as set out herein, the Chargor shall pay to the Chargee for each such cheque or payment the sum of \$500.00 as a liquidated amount to cover the Chargee's administrative costs and not as a penalty and each sum shall be a charge upon the Property and shall bear interest at the Interest Rate.

The Chargor shall pay to the Chargee an administration fee of \$250.00 for each advance.

The Chargor shall pay to the Chargee a discharge fee of \$250.00 for each discharge or partial discharge document executed by the Chargee exclusive of legal fees and H.S.T.

### 32. PAYMENTS

Any payment made by the Chargor to the Chargee which is received by the Chargee on a non-business day of the Chargee or after 12:00 noon on any business day of the Chargee shall be deemed to have been received by the Chargee on the next business day of the Chargee.

### 33. GUARANTEE AND POSTPONEMENT OF CLAIM

In consideration of the Chargee advancing all or any part of the Principal Amount to the Chargor or as the Chargor directs, the Covenantor hereby covenants and agrees, as principal debtor and not merely as surety (subject to Subparagraph (b) of this Section), to duly pay and discharge all present and future liabilities and obligations of the Chargor to the Chargee under the Charge or otherwise (the "Liabilities") including, without limiting the foregoing, to pay the Principal Amount, all Interest and Costs and to perform all of the Chargor's obligations under the Charge and agrees that:

- (a) Regardless of whether or not any other person shall be or become in any way responsible to the Chargee for, or in respect of, the Liabilities or any part thereof, and regardless of whether or not any other person now or hereafter responsible to the Chargee for the Liabilities or any part thereof shall cease to be so liable, this Guarantee shall be a continuing guarantee and:
  - (i) shall not be determined or otherwise affected or the Chargee's rights hereunder prejudiced by the discontinuance of the obligations under the Charge against any other person who may be liable hereunder;
  - (ii) shall not be determined or otherwise affected by any amendments, renewals, extensions or novations of the Charge regardless of whether the Covenantor was aware of, or consented to such amendments, renewals, extensions or novations unless a written release of the Covenantor has been authorized by the Chargee;
- (b) The obligation of the Covenantor hereunder to pay and discharge all of the Liabilities shall continue and be in full force and effect at all times while the Property is not fully occupied by tenants in occupation pursuant to bona fide leases, open for business and paying full rent pursuant to such leases. At such time or times as the Property is fully occupied by tenants in occupation pursuant to bona fide leases, open for business and paying full rent pursuant to such leases, the obligation of the Covenantor hereunder to pay and discharge the Liabilities shall be limited to twenty-five percent (25%) of the principal amount outstanding plus Interest and Costs.

- (c) The Chargee may from time to time grant to the Chargor or to any other person liable to the Chargee for the Liabilities time for payment or any other indulgence without in any way prejudicing or affecting any of the Chargee's rights against the Covenantor;
- (d) The statement in writing from the Chargee as to the outstanding amount of the Liabilities shall be binding upon the Covenantor and conclusive against the Covenantor. All right to question in any way the Chargee's present or future method of dealing with the Chargor or with any other person now or hereafter liable to the Chargee for the Liabilities or any part thereof or with the Property is hereby waived. The Covenantor hereby renounces all benefits of discussion and division, and the Chargee shall not be bound to exhaust its recourse against the Chargor or any other person or the Property before requiring or being entitled to payment from the Covenantor;
- (e) All debts and liabilities, present and future, of the Chargor to the Covenantor are hereby assigned to the Chargee and postponed to the Liabilities and all monies received from the Chargor or for its account by the Covenantor shall be received in trust for the Chargee, and forthwith upon receipt paid over to the Chargee until the Liabilities are fully paid and satisfied, all without prejudice to and without in any way limiting or lessening the liability of the Covenantor to the Chargee hereunder;
- (f) The Covenantor hereby expressly waives in favour of the Chargee notice of the existence or creation of all or any of the Liabilities, all diligence in collection or protection of or realization upon the Liabilities or any part thereof, any obligation hereunder, or any security for any of the foregoing, and presentment, demand, notice of dishonour, protest and all other notices whatsoever;
- (g) No delay on the Chargee's part in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Chargee of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy;
- (h) This Guarantee shall be jointly and severally binding upon the Covenantor (if more than one), and upon the Covenantor's heirs, legal representatives, successors and assigns and shall enure to the benefit of the Chargee and its successors and assigns;
- (i) The Covenantor shall be held and bound to the Chargee directly as principal debtor in respect of the due payment and full discharge of the Liabilities; and
- (j) Any notice or demand which the Chargee may wish to give may be served on the Covenantor or the Covenantor's legal representatives either personally, by telecopy ("fax") to the last known fax number of the party being served or by ordinary mail to the address for service of the party being served as shown herein, and any notice served personally, by fax or mail shall be deemed to be served on the day it was delivered, faxed or mailed, respectively.

#### **34. ASSIGNMENT BY CHARGEЕ**

The Chargee may assign or syndicate the loan for which this Charge is security without the consent of the Chargor.

#### **35. VALIDITY OF PROVISIONS**

If any provision of the Charge is held to any extent invalid or unenforceable, the remainder of the Charge shall not be affected and shall remain valid and enforceable.

#### **36. TIME OF THE ESSENCE**

Time shall be of the essence in all matters relating to the Charge.

---

**37. INTERPRETATION AND HEADINGS**

Wherever in the Charge the singular or masculine is used, the same shall be construed as meaning the plural or the feminine or the neuter where the context or the parties hereto so require. The headings do not form part of the Charge and have been inserted for convenience of reference only.

17349.0144/4533641\_1

---