

ON THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

BEFORE MTRE.  
\_\_\_\_\_ the undersigned Notary for the Province of Québec, practicing in the \_\_\_\_\_

CAME AND APPEARED:  
Scotia Mortgage Corporation, a loan company constituted under the Trust and Loan Companies Act (Canada), having its head office at  
44 King Street West, Toronto, ON M5H 1H1 and a place of business in Québec at \_\_\_\_\_

represented by \_\_\_\_\_  
\_\_\_\_\_ its \_\_\_\_\_,  
according to a resolution of the Board of Directors (the lender)

The Lender's notice of address has been registered in the Land Register under the number \_\_\_\_\_  
AND:

(the borrower)

**In this document:**

- you and your mean each person who has signed or is bound by this hypothec as debtor (the borrower) including your successors and assigns
- we, our, and us mean Scotia Mortgage Corporation (the lender), including our successors and assigns
- Scotiabank means The Bank of Nova Scotia
- the headings have been inserted for reference only
- default means you have not complied with any one or more of your obligations contained in this document
- Civil Code means the Civil Code of Québec
- all amounts payable to us must be paid in Canadian dollars at the address indicated to you in writing
- CMHC-insured mortgages are made according to the National Housing Act and any legislation related to that Act.

The parties agree as follows:

Document details

D1 Loan amount

We agree to loan you \_\_\_\_\_ dollars  
(\$ \_\_\_\_\_ ) to pay off your existing debt with another lender  
on the following conditions:

- We will pay the loan amount directly to your existing lender \_\_\_\_\_.
- We will be subrogated in the rights of the existing lender under the hypothec created pursuant to the terms of the deed of hypothec.

The original loan is secured by a hypothec made pursuant to a deed executed before  
Notary on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ and  
registered in the Registry Office for the Registration Division of \_\_\_\_\_  
under the number \_\_\_\_\_ (the deed of hypothec).  
All terms and conditions of the deed of hypothec from the original lender remain in force  
except as amended by this agreement.

(End of this page)

When we are subrogated in the rights of the existing lender, the following property is hypothecated in our favour

If we are not subrogated in the rights of your existing lender within 30 days after the loan is made (or a further time period we agree to in writing), we may require the loan amount to be paid in full. The loan amount will bear interest at the amount defined in section D2, from the date of this agreement to the date of the payment.

**D2 Interest and payments on the loan**

- a) You agree that interest at the rate of \_\_\_\_\_ per cent ( \_\_\_\_\_ %) per year is calculated semi-annually, not in advance, on the loan amount.
- b) In this agreement the interest adjustment date (also referred to as the term start date) is the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Up to and including the interest adjustment date, you agree to repay interest on all amounts we have advanced to you at the rate stated above.
- c) If there is more than one month from the advance date to the first regular monthly payment due date, at our option, that interest will be due and payable:
  - one month before the first regular monthly payment due date, or
  - on the first regular monthly payment due date, or
  - it may be deducted from subsequent advances.

We may also require you to pay this interest monthly, before the first regular monthly payment due date is set.

- d) You agree to pay us the loan amount, together with interest calculated from the interest adjustment date, in regular monthly loan payments of principal and interest. Each of these monthly loan payments will be

\_\_\_\_\_ dollars (\$ \_\_\_\_\_ ) beginning on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. and continuing each and every following month, and ending on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. You will pay the balance of the loan amount together with all the interest that is due and payable on the date last mentioned which is also called the final payment date.

- e) Each monthly loan payment will be used:
  - first, to pay or reduce the interest that has accrued on the loan amount. The accrual period is from and includes, the previous monthly loan payment date, to but excludes, the monthly loan payment date on which the payment is made. The interest for the first monthly loan payment is accrued from the interest adjustment date.
  - second, if any of the payment remains, to reduce the loan amount.
- f) Compound interest at the rate set out above is charged on any interest that is not paid when due. The rate for compound interest is that payable on the loan amount both before and after the final payment date, default and judgment. Compound interest will be paid at the same intervals as your monthly loan payment dates.

If you do not make a monthly loan payment on the payment date, we will charge interest:

- on any overdue interest until paid (compound interest)
- on overdue compound interest until paid.

**D3 Fees and costs**

You agree to pay all legal, registration and notary fees and disbursements relating to the preparation and discharge of this document and the hypothec created in it, along with all application fees, the appraisal fee, any survey costs or mortgage default insurance premiums and provide us with proof of registration of this document.

**D4 Prepayment terms and conditions**

If a Schedule of Prepayment Terms and Conditions is attached to this agreement, you may prepay the loan amount according to the conditions outlined in the schedule.

You agree with us that solely for the purpose of any law relating to prepayment, the date of this hypothec shall be deemed to be the term start date (also referred to as interest adjustment date).

**D5 Additional Hypothec**

- a) You also hypothecate the following as security to us up to the amount together with the interest specified in section D1 of this document:
  - 1) all present and future rents and revenues of the property
  - 2) any buildings on your property and anything now or later attached or fixed to the buildings on your property including additions, alterations and improvements
  - 3) the amounts payable under all insurance policies covering the property in section D1 of this document

- b) You further hypothecate the property for an additional twenty per cent (20%) of the loan amount described in section D1. This specifically secures payment to us of all amounts that may be owing under this document and not secured by the hypothec described in sections D1 of this document, such as taxes, insurance, repairs and other costs.

## **D6 If the property is a condominium unit**

### **Your rights and obligations as a borrower**

If the property is a condominium unit, you agree to:

- a) comply with the Civil Code and the condominium documents (declaration of co-ownership, condominium bylaws, rules, and other documents) and if we ask for it, you agree to provide us with proof that you are complying with the rules of the syndicate of co-owners. You authorize us to correct any failure of yours to comply with the Civil Code and the condominium documents. You agree to pay our expenses to enforce our right to have the syndicate of co-owners or any owner comply with the Civil Code and the condominium documents.
- b) send to us any notices, assessments, bylaws, rules, or financial statements of the condominium, that you receive (or are entitled to receive) from the syndicate of co-owners, if we ask for them. You authorize us to inspect the records of the syndicate of co-owners.
- c) authorize us to exercise your rights under the Civil Code to vote on condominium matters and pay for any expenses we incur to do so. We are not liable for any action taken in doing what you have authorized us to do under this agreement. We are not liable for any failure to act.
- d) pay your unit's share of common expenses and any emergency fund to the syndicate of co-owners on the due dates.
- e) insure your portion of the common areas of the condominium if the syndicate of co-owners does not do so, and, at our request, insure your interests in assets of the syndicate of co-owners or buildings that are part of the condominium. This includes existing buildings and those built in the future, both during construction and afterwards.

If the property stops being governed by the Civil Code or condominium documents, all terms of this hypothec continue to apply to the property.

### **Our rights and obligations as a lender**

If the property is a condominium unit, we have the right to:

- a) correct any failure of yours to comply with the Civil Code and the condominium documents. This can include obtaining insurance on your behalf or arranging repairs and maintenance.
- b) inspect the records of the syndicate of co-owners.
- c) vote on your behalf on condominium matters.

We can, at our option, demand full payment of the loan if the syndicate of co-owners fails to comply with the condominium documents. For example, if the condominium corporation fails to:

- insure all private and common portions of the property according to law and our requirements
- insure the assets of the syndicate of co-owners as per our request
- provide us with proof that the insurance is in force
- do all that is necessary to collect insurance proceeds
- manage the property in a careful way
- make substantial modification to the common portions of the property without our approval.

or, there has been substantial damage to the property and the owners have voted for termination of the divided co-ownership.

## **Your rights and obligations as a borrower**

### **B1 Your primary obligation**

You agree to pay the loan amount and interest as outlined in sections D1 and D2 of this document. If you do not perform any of the obligations listed in this document, you are in default.

You must also keep your information about you and your property current. It is your responsibility to inform us in writing if anything changes after this agreement is signed.

## B2 Your obligation continues

Unless we have provided you with a release, you continue to be responsible for all obligations named in this document, even if:

- there is a transfer of ownership in the property, or
- we extend the time to repay all or part of the loan amount, or
- we renew the loan, or
- we make any other arrangement with a new owner for all or part of the property.

If two or more persons are designated in this document as “borrower” each of them is bound to meet all obligations to us. The borrowers are jointly and solidarily obligated to us, the lender.

## B3 Making payments on your behalf

You agree to repay us for:

- any amount we pay in connection with this loan
- any amount to register, preserve and release the hypothec securing the loan
- any amount to exercise our rights to recover the loan or enforce the hypothec or to preserve the property. We can also pay off any hypothecs, claims, expenses or encumbrances against your property which we consider to have priority over the hypothec
- any other amounts you are obliged to pay but which are paid by us including appraisal fees and legal and notary fees for the preparation, registration and discharge of the hypothec.

These payments are due immediately and are subject to interest at the rate set out in section D2 in this document, calculated from the date we make the payments, until they are paid in full.

## B4 Declarations about the property

You acknowledge and declare that:

- a) this hypothec ranks first against the property.
- b) the property described in section D1 belongs to you at all times and is free and clear of all encumbrances, liens, and hypothecs except those we have approved. This includes the declaration of a family residence. All encumbrances, liens, and hypothecs must be released prior to any advance. You will supply us with a copy of each deed, release and transfer along with all signed documents to show that the hypothec is valid and enforceable.
- c) the certificate of location reflects the present physical state of the property and buildings.
- d) all taxes, assessments, rates, duties, or claims affecting the property have been paid.
- e) the property has not undergone any construction, renovation, repair, or alteration within the six (6) months preceding the date of this document that have not been paid for in full.
- f) your marital status is:

and no changes are contemplated regarding your marital status or, if you are married, no changes have been contemplated since the date of your marriage nor a proceeding

pending that may result in a change in your marital status. You will immediately inform us in writing should there be a change in your marital status or should the property become the family residence.

## **B5 Maintaining the property**

### **Repair and maintenance**

You agree to:

- maintain the property in good condition and repair
- use the property or permit the property to be used only for the purpose it is now used
- comply with all applicable laws and regulations.

You agree not to:

- commit any act which might lower the value of the property
- make or permit any major alterations or additions to be made to the property without our consent
- use your property for any illegal purposes or allow it to be used by any other party for illegal purposes
- abandon your property.

### **Inspections**

You will provide access to the property for inspection by us, or our agents whenever we request it. You will pay us any costs involved in conducting any inspections that we feel are appropriate. This includes environmental testing, site assessments, or investigations. If this is a CMHC-insured mortgage, in this section, “our agents” includes agents of Canada Mortgage and Housing Corporation.

### **Insurance on the property**

You agree to insure and maintain insurance on the property, until the mortgage is discharged, against loss or damage by fire and other perils generally set out in fire insurance policies or other perils we may request. You agree to provide us at our request with the policy or policies as evidence of this coverage. You also agree, if we request, that fifteen (15) full days before the policy expires or is cancelled, you will deliver evidence of a renewal or replacement policy. This evidence may mean a copy of the renewal or replacement policy.

You also specifically agree that the insurance policy:

- will include extended perils coverage on each building on the property and on any building which may be built on the property both during construction and when complete
- amount must be for not less than the full replacement value of the buildings located on the property
- will indicate us as payee for any claim
- will contain no co-insurance clause
- will contain a mortgage clause satisfactory to us.

### **Taxes on the property**

You agree to:

- a) provide us with the municipal and any other property tax bills or notices when you receive them.
- b) make payments to us on account for the municipal and any other property taxes payable on your property so that we may pay the taxes when they become due.

These payments are to be made on the same dates that your regular loan payments are paid to us. Each monthly payment will consist of approximately 1/12th of our estimate of a year's taxes becoming due and payable. If the final tax bill due date or final installment due date is less than one year from the interest adjustment date, you may be required to pay us equal monthly payments during that period and during the next 12 months. These equal monthly payments will be based on our estimate of the total taxes payable for both periods so that we will receive enough money from you to pay all taxes for both of these periods.

- c) pay to us on demand any amount by which the actual taxes on your property exceed our estimate of your taxes or exceed the amount we have accumulated to pay your taxes. At our option, we may increase the monthly payment to cover this amount.
- d) provide us with a copy of any receipt within thirty (30) days of the due date if you have paid your taxes directly to the municipality.

## **B6 Income from the property**

At our request, you agree to provide us with a copy of all leases affecting the property including all information about rents and revenues.

You agree not to hypothecate or assign, in whole or in part, the rents or revenues of the property to a third party, or accept payments of rent in advance for more than one month or provide any tenant with a release or discharge in advance for more than one month's rent. You agree not to lease the property on terms lower than market conditions unless agreed to by us in writing.

If authorized by us, you may collect the rents and revenues. If we withdraw this authorization, we may then collect the rents and revenues on the property. We are entitled to a commission for this collection, which may be deducted from any amount collected. We have no obligation to advise you of any irregularity in the payment of rents.

You agree to use best efforts to ensure that lessees of the property pay their rent in a timely manner.

## **B7 Changing ownership of the property**

We may require you to pay all the money that you owe us under this loan immediately if you sell, transfer, or hypothecate the property. This provision does not apply to a sale, transfer, or hypothec to which we have given our prior written consent.

Providing we have given our prior consent, within thirty (30) days after any change of ownership of the whole or any part of the property, you agree, at your expense to:

- give written notice of the change to us
- provide us immediately with a copy of the deed as evidence of the change and proof of its registration
- provide us with an accepted transfer of each insurance policy, and any other documents that we may request
- ensure the new owners assume all obligations and liabilities jointly and solidarily.

## **B8 Discharging or releasing the hypothec**

When the loan and all other sums due to us under this document have been repaid in full, you will be responsible for having the discharge prepared by a notary at your expense. You will give us reasonable time to sign the discharge. You are responsible for registering and for the cost of registering any discharge.

## **Our rights and obligations as a lender**

### **L1 Other agreements, releases, and transfers on the property**

We must approve all other agreements, releases, discharges, and transfers that relate to this loan, all of which must be prepared by a notary satisfactory to us, at your expense, including our usual administration fee.

We must receive a copy of each agreement, release, and transfer along with all signed documents to show this hypothec is valid and secure.

If a legal hypothec is registered against the property, or if a prior claim is asserted, you agree to have the hypothec discharged or prior claim settled within fifteen (15) days. We may pay the debt secured by the legal hypothec or prior claim but we are not obliged to do so. Any amount which we pay on your behalf is payable to us on demand and bears interest at the rate of the loan.

### **L2 Maintaining the property**

#### **Repair and maintenance**

If, in our opinion, repairs are needed, we can make those repairs. The cost of any inspections and needed repairs are immediately payable by you.

#### **Insurance on the property**

We have the right to approve the insurance policy on the property and the insurer.

If you do not meet the insurance requirements of this document, we can but are not obliged to obtain insurance at your expense. If we do this, the amount that we pay for insurance will be payable to us immediately and will bear interest at the rate of the loan.

We are the payee of any claim over the claim of any other person, for any loss under the policy. If there is loss or damage of any kind to the property, you will immediately notify us and provide all necessary proofs of loss at your expense. This agreement is sufficient authority for an insurance company to pay us any loss related to the insurance policy or to accept instructions from us dealing with loss. We have the right to receive the proceeds of



each policy and to apply them wholly or in part either to meet costs of reconstruction or repair or to reduce the outstanding balance of your loan or of any other amounts you owe us. We must approve all repair or reconstruction work before the work may begin.

### **Inspections**

We, or our agents, may inspect the property and any buildings on it at any time we think appropriate. If this is a CMHC-insured mortgage, in this section, “we” includes agents of Canada Mortgage and Housing Corporation.

We may do an inspection for any purpose but in particular, to do environmental testing, site assessments, investigations, or any study we decide is necessary. This inspection will not cause us to be considered in possession of your property.

You will pay for any inspection that we do or any other costs.

### **Taxes on the property**

- a) We will estimate your municipal and property taxes for the year based on information received from you. We may revise the estimate from time to time.
- b) We will pay your municipal and property taxes from the monthly payments we receive from you as long as you are not in default under this document. If you have not paid us enough for taxes, we may still pay the taxes. This will create a debit balance in your tax account. Any debit balance is immediately payable by you. Until paid, any debit balance is added to the loan amount. We are under no obligation to advise you that a debit balance has been created.
- c) We can deduct from the final advance of the principal amount enough money to pay all taxes due on or before the interest adjustment date and which have not been paid on the date the final advance is made.
- d) We will pay you interest on any credit balance in your tax account. The interest we pay will not be less than that paid by Scotiabank on savings-chequing accounts with the same credit balance. We will charge you interest on the debit balance in your tax account at the interest rate payable on the loan amount until the debit balance is paid to us in full.

If you default on any loan payment, we may apply the money in your tax account towards the repayment of the interest due and payable, the loan amount, or both.

### **L3 Income on the property**

If we withdraw the authorization for you to collect the rents and revenues on the property, we may collect the rents and revenues. We are entitled to a commission for this collection, which may be deducted from any amount collected.

We have no obligation to advise you of any irregularity in the payment of rents.

### **L4 Notice**

Any written notice, demand, or suit to or against you or any subsequent acquirer of the hypothecated property, may be given, or be served, at the address specified above or at your address last known to us.

If we are unable to serve notice at either of those addresses, service may be effected at the office of the Clerk of the Superior Court for the judicial District of

### **L5 Our recourses when you are in default**

Our security will become enforceable and, in addition to our rights and recourses provided by law, we may take any or all of the following actions immediately or at a later date when you:

- are in default of any obligation in this document
- become bankrupt or insolvent
- abandon the property.

We have the right to demand or request payment of all amounts due under this document plus interest outstanding.

We can choose not to use a right to demand payment but this does not give up our right to do so at a later date.

Even if we waive or partially waive your failure to pay any amount owing to us, or do some other act, or we use our right to demand payment, this does not prevent us from exercising any other right we may have.

We are only required to use reasonable care in enforcing rights and satisfying obligations under the terms of this agreement. We are only liable for any intentional fault or gross negligence in dealing with the property.

The hypothec created under this document is in addition to and does not take the place of any other hypothec or security held by us.

## **L6 Discharging or releasing the hypothec**

We may establish the terms for releasing our interest in all or part of the property (that is, we may discharge, or partially discharge, the property from the hypothec) whether we receive value for our release or not. If we release part of the property from the hypothec at any time, the rest of the property continues to form part of the security.

If the property is subdivided before our interest in the property comes to an end, the hypothec is secured by each part into which the property is subdivided. This means that each part secures repayment of the total amount of the loan you owe us, even if we release another part of the property from the hypothec.

We can release you, any guarantor, or any other person from performing any obligation contained in the hypothec, any agreement or any other security document without releasing any part of the property secured by the hypothec or any other security document. Any such release does not release any other party from their obligations under this document or any agreement.

When our interest in the property comes to an end, you will be responsible for having the discharge prepared by a notary at your expense. You will give us reasonable time to sign the discharge. You are responsible for registering and for the cost of registering any discharge.

## **L7 Assigning our rights**

We may sell or assign all or any part of the loan, any agreement, or this hypothec to one or more third parties without notice to you or your consent.

If we do so, you agree that this hypothec will continue to secure all amounts owing under any loan or agreement that has been so sold or assigned and all loans that arise under any agreement after such sale or assignment. This hypothec and any loan or agreement once sold or assigned may be repurchased by us, whether or not in default.

(End of this page)

## Signatures

### Language clause

The parties confirm that it is their wish that this agreement, as well as all other related documents, including notices, have been and will be drawn up in English. Les parties aux présentes confirment leur volonté que cet acte de même que tous les documents s'y rattachant, y compris tout avis, soient rédigés en anglais.

### Intervention by the spouse

The spouse, who has been informed of the loan agreement and hypothec, consents and agrees to the loan agreement and hypothec and confirms that the matrimonial status is correct as declared.

Even if the property is a family residence as set out in the Civil Code of Quebec with a declaration of family residence against it, the hypothecs, rights and options of the lender take priority against the property, and the spouse gives up any rights that might result from any present or future declaration registered against the property.

If we become the owner of the property, or sell it to a third party by exercising our hypothecary rights, a declaration of the property as a family residence will be cancelled. Both you and your spouse agree to this condition.

### Intervention by the guarantor

The guarantor acknowledges this document and is satisfied with its terms. The guarantor agrees unconditionally to repay to us jointly and solidarily, together with interest and any other payment to which we are entitled and to fulfill your obligations under this document, in case you or any subsequent owner of the property is in default.

The guarantor acknowledges that we, as lender, without gaining further consent or giving notice to the guarantor, may:

- grant delays in paying the loan amount and interest due
- agree to changes to provisions of the loan (including increases in rates of interest)
- renew the loan or amend/increase the loan amount
- change the term or grant a discharge, totally or in part on the property
- give up any right provided in this document, against any person
- realize or replace any security given on the loan.

None of these delays and amendments will release the guarantor and the guarantor's liability remains unchanged.

We may require the guarantor to pay for the full amount due under this agreement, without having to realize its security against the property under the hypothec or any other security and without having to use any other options against the borrower or any subsequent buyer of the property. The guarantor renounces to the benefits of division and discussion.

(End of this page)

**WHEREOF ACT:**

THUS DONE AND PASSED AT THE said City of

Province of

under the Number

of the original minutes of the undersigned Notary.

AND after due reading, the parties signed with and in the presence of the said Notary.

Scotia Mortgage Corporation Loan Reference Number

Signed at  
on the date written above.

Scotia Mortgage Corporation

Per:

\_\_\_\_\_

Borrower

\_\_\_\_\_

Spouse

\_\_\_\_\_

Guarantor

\_\_\_\_\_

Notary

\_\_\_\_\_

No.

Date

LOAN

by

SCOTIA MORTGAGE CORPORATION

to