



# VARIABLE RATE MORTGAGE

REF. NO. \_\_\_\_\_

FREEHOLD  LEASEHOLD  (check (✓) appropriate box)

This mortgage is made on \_\_\_\_\_, \_\_\_\_\_.

BETWEEN:

Mortgagor (the borrower)

AND:

SCOTIA MORTGAGE CORPORATION

Mortgagee (SMC)

AND :

**Spouse of the borrower** (if spouse not a borrower)

AND:

Guarantor

In this mortgage **you and your** means each person who has signed this mortgage as borrower. **We, our** and **us** mean SMC. **Borrower** includes one or more borrowers. **Spouse includes the spouses of the borrowers.** **Guarantor** includes one or more guarantors. **Your property** means the property described below. **Loan amount** means the principal amount loaned to you that is outstanding from time to time.

If this is a CMHC-insured mortgage, it is made pursuant to the **National Housing Act**.

In return for our making a loan to you in the amount of (\$ \_\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_ Canadian Dollars (called the **principal amount**) which you acknowledge having received from us, you hereby give us this mortgage.

**1. Description of YOUR PROPERTY covered by this mortgage.\***

Property owned or rented by you (if you are a tenant of your property under a lease, this means that you have the exclusive use of the buildings during the term of the lease):

Any buildings on your property and anything now or later attached or fixed to the buildings or your property including additions, alterations and improvements are covered by this mortgage. However, no additions, alterations or improvements may be made by you without our prior written consent.

**Use of Your Property** – You may, of course, continue to remain in possession of your property. However, if you default in any of your obligations to us under this mortgage, we have the right to take immediate possession.

You will not use your property for any business purposes, without our prior written consent.

*\*If space is insufficient to type description of your property in this paragraph, attach Schedule A describing your property and type in above space "See attached Schedule A".*

**2. WHAT THIS MORTGAGE DOES.**

As owner of your property, you grant and mortgage your property to us and our successors and assigns (called our **legal representatives**) as security for repayment of your loan. This means you give your entire interest in your property to us and to anyone to whom this mortgage is transferred in any way. You release to us all of your claims on your property until you have complied with all of your obligations under this mortgage.

If you are a tenant of your property, you grant, assign and mortgage your entire interest in your property (including any option to purchase) to us and our legal representatives and to anyone to whom we transfer that interest for the entire term of the lease, as security for repayment of your loan.

**Termination of this Mortgage** – Our interest in your property terminates when you have:

- Repaid the loan amount and all interest you may owe us as provided below; and
- Complied with all of your other obligations under this mortgage.

**3. INTEREST.**

**A. Interest Rate** – The interest rate payable by you on the loan amount is a variable rate expressed as a rate per annum, equal to our Variable Rate Mortgage (VRM) Base Rate with a variance of \_\_\_\_\_ % per annum. Our Variable Rate varies from time to time, as the Prime Rate of The Bank of Nova Scotia varies.

Interest is calculated monthly not in advance. Interest at this variable rate is payable on the loan amount both before and after the final payment date, default and judgment. The interest rate will vary automatically on the day the Bank of Nova Scotia Prime Rate changes. Wherever this mortgage refers to the interest rate payable on the loan amount, that expression means the VRM Base Rate plus or minus the number of percentage points per annum set out above calculated and payable as set out above.

The principal amount secured by this mortgage is stated on page 1. At the time you sign this mortgage the VRM Base Rate is \_\_\_\_\_ % per annum and the interest rate payable on the loan amount (base rate plus/minus the number of percentage points set out above) is \_\_\_\_\_ % per annum calculated monthly not in advance which is equivalent to \_\_\_\_\_ % per annum calculated half-yearly not in advance.

Those interest rates will remain in effect after you have signed this mortgage until they are varied as provided under this clause 3A. Paragraph 23 of this mortgage sets out interest rates calculated half-yearly not in advance which are equivalent to interest rates calculated monthly not in advance.

If this is a Variable Rate Mortgage with a Cap Rate, the maximum interest rate payable by you on the loan at any time during the term will be \_\_\_\_\_ % per annum, calculated monthly not in advance. Your monthly payments will be calculated using this interest rate.

**B. How You Can Ascertain the Interest Rate** – After each VRM Base Rate change we will mail a notice showing your new interest rate and the date it became effective. The notice will be sent to your last known address shown in our records. However, our failure to mail a notice or the fact that you do not receive it will not prevent the rate from varying under clause 3A. The VRM Base Rate in effect at any time will be available at any branch of The Bank of Nova Scotia in Canada.

**C. Compound Interest** – If on any monthly loan payment date you do not make the payment due on that day, we will charge you interest on any overdue interest until paid to us. This is called compound interest. We will also charge interest on compound interest that is overdue until paid to us. The interest rate for compound interest is the interest rate payable on the loan amount both before and after the final payment date, default and judgement.

**D. Deferred Interest** – If the interest that has accrued on the loan amount from one monthly loan payment date (or, in the case of the first payment, from the interest adjustment date) to the next monthly loan payment date exceeds the monthly loan payment, the excess (called deferred interest) will bear interest at the interest rate payable on the loan amount. On the next monthly loan payment date the interest on the deferred interest will be added to the deferred interest and become part of it. If the deferred interest is not paid on that monthly loan payment date, it will bear interest at the interest rate payable on the loan amount and that interest will on the next monthly loan payment date be added to the deferred interest, and so on. The intervals at which interest becomes deferred interest are called rests.

**4. HOW YOU WILL REPAY YOUR LOAN.**

**A. Currency and Place of Payment** – You shall repay the loan amount and all interest due and payable on it to us in Canadian dollars. Your regular monthly loan payments and all other payments will be made at our Office in Toronto, Ontario, or at any other place we may designate.

**B. Interest Payable Prior to your First Regular Payment Due Date** – Before your term start date, you will pay us interest, at the rate payable on the loan amount, calculated monthly, on all money we have advanced to you.

If more than 1 month will elapse from the advance date to your 1st regular payment due date, you will owe interest for the period, separately. At our option, such interest will be due and payable one month prior to the 1st regular payment due date or on the 1st regular payment due date or it may be deducted from subsequent advances. We may also require you to pay this interest monthly, before we set a first regular payment due date.

In this mortgage the Interest Adjustment Date (also referred to as the Term Start Date) is

\_\_\_\_\_, \_\_\_\_\_.

**C. Payments After the Interest Adjustment Date** – The principal amount together with interest calculated from the interest adjustment date shall become due and be paid by you in regular **monthly loan payments**.

You will make your regular monthly loan payments to us in equal instalments of (\$ \_\_\_\_\_) \_\_\_\_\_ dollars each,

beginning on \_\_\_\_\_, \_\_\_\_\_,

and continuing monthly thereafter until \_\_\_\_\_, \_\_\_\_\_.

Each of the above dates is called a monthly loan payment date. You will pay the balance of the principal amount together with all the interest that is due and payable on the date last mentioned which is also called the final payment date.

- D. Application of Monthly Loan Payments** – Each monthly loan payment will be used,
- **first**, to pay or reduce the interest (other than deferred interest) that has accrued on the loan amount from (and including) the previous monthly loan payment date to (but excluding) the monthly loan payment date on which the payment is made (if the payment is the first monthly loan payment, the interest will be the interest that has accrued from the interest adjustment date);
  - **secondly**, if any of the payment remains, to pay or reduce deferred interest, if any; and
  - **thirdly**, if any of the payment remains, to reduce the loan amount.

**E. Early Payment** – We may require you to pay all the money that you owe us under this mortgage immediately whenever the total of the loan amount, all other amounts due and payable under this mortgage and all amounts secured by a mortgage, charge, lien or other encumbrance against your property which ranks equal or in priority to this mortgage exceeds 105% of the original advanced amount.

**F. Early Payment On Sale or Mortgage** – We may require you to pay all the money that you owe us under this mortgage immediately if you sell, transfer, mortgage or charge your property. This provision does not apply to a sale, transfer, mortgage or charge to which we have given our prior written consent.

**G. Prepayment Terms and Conditions**

**Prepayment Charges – Paying off your mortgage before the maturity date.**

You may prepay some, or the entire mortgage early, based on the type of mortgage you have. If we later agree to change or extend the terms of the loan, these prepayment conditions do not apply to the new renewal or extended term.

**Miss a Payment® Option**

You may miss any scheduled payment, as long as you have prepaid an amount equal to the amount of the payments you intend to miss in this term and your mortgage is not in default. You cannot, however, miss your Mortgage Protection premium, if applicable. Extra payments or prepayments may not be used to miss a payment if this mortgage is assumed by a subsequent purchaser.

**Continuing Liability**

Unless you prepay the balance of the principal amount owing, you must continue to make your regular mortgage payments.

**If your mortgage does not provide for a Cap Rate and the Prepayment Type is Open**

If your mortgage payments are up to date, you may pay off some, or the entire principal amount of your mortgage, on any regular payment date. If you pay off the entire principal amount owing you must pay an administration fee of \$100 for each year or part of a year remaining in the term.

You may early renew this mortgage to a fixed rate, closed prepayment type mortgage for a term of 3 years or longer without a prepayment charge.

If you received a Cashback with your mortgage, the cashback amount will be payable as outlined below under the heading *Cashback*.

**If your mortgage provides for a Cap Rate and the Prepayment Type is Closed**

If your mortgage payments are up to date, you may increase your payments, or pay off some of your mortgage early in one of the three ways listed in the following chart. These options apply to partial prepayments only. The options are available each year and cannot be saved to use in a later year. Each year is defined as the 12 month period starting on the Term Start Date (also referred to as the Interest Adjustment Date) or the anniversary of that date. If your mortgage term is less than 12 months, these options are available in each term.

PREPAYMENT OPTIONS		
How	When	What it means
1. *by paying an extra regular mortgage payment (principal, interest and taxes)	on any regular payment date during the year	your principal mortgage balance will be reduced by that amount
2. *by paying up to 15% of the original principal amount of your mortgage	at any time (excluding day prepaid in full), sum total not to exceed the yearly maximum	
3. by increasing your regular mortgage payment by up to 15% of the principal and interest payment set for the term of the mortgage	once each year of the term of your mortgage	

\*Only items 1 & 2 qualify for the Miss a Payment option

**Prepayment Costs**

When you prepay some, or the entire principal of your mortgage, you will incur prepayment charges unless the partial prepayment is in accordance with the prepayment options chart above.

The charge to pay off some, or the entire principal amount of your mortgage early is 3 months' interest costs. The interest rate used to calculate the 3 months interest is the Cap Rate. If you received a Cashback with your mortgage the cashback amount will be repayable as outlined below under the heading *Cashback*.

**Cashback**

If you receive a cashback with your mortgage the cashback amount will be repayable if your mortgage loan does not remain outstanding with us for the full term. If the mortgage is partially prepaid, paid in full, transferred, assumed, or renewed prior to the expiry of the term, the cashback amount will appear as payable in any assumption, discharge or Early Renewal statement and will be calculated on an even, prorated basis using the following formula:

$$\text{Cashback Repayment} = \frac{\text{Remaining Term in months (rounded up)}}{\text{Original Term in months}} \times \frac{\text{Cashback Amount}}{\text{Received}}$$

**H. Amounts Covered by Mortgage** – All amounts payable by you to us under this mortgage are secured by this mortgage and are a charge on your property.

**5. YOUR TITLE TO YOUR PROPERTY.**

**A. AS OWNER OF YOUR PROPERTY,** you certify that:

- i) You are the lawful owner of your property;
- ii) You have the right to mortgage your property to us;
- iii) There are no encumbrances on the title to your property; and
- iv) There are no limitations or restrictions on your title (excepting only building by-laws, zoning regulations and registered restrictions) to your property.

**B. IF YOU ARE A TENANT OF YOUR PROPERTY,**

- i) You certify that:
    - a) The property is leased to you, and your legal or personal representatives by \_\_\_\_\_  
(NAME OF LESSOR)  
under a lease dated \_\_\_\_\_, \_\_\_\_\_ and registered on \_\_\_\_\_,  
in the Registry Office for the Registry Division of \_\_\_\_\_  
as number \_\_\_\_\_ for a term of \_\_\_\_\_ years. This lease  
runs from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_.
    - b) The lease is a binding and existing lease.
    - c) All rents payable under the lease have been paid to the date of this mortgage.
    - d) You will pay the rent as it falls due, and comply with all terms of the lease.
    - e) You have permission to or the right to assign the lease and to mortgage it.
    - f) There are no limitations, restrictions (excepting only building by-laws, zoning regulations and registered restrictions) or encumbrances on your interest under the lease, except as expressed in the lease.
  - ii) You promise:
    - a) To comply with the lease and not to do anything that would cause the lease to be terminated.
    - b) Not to surrender the lease.
    - c) Not to make any change in the lease without first obtaining our written consent.
    - d) To give us a true copy of any notice or request you receive concerning the lease.
    - e) To notify us immediately if your landlord advises you of early termination or takes any steps to effect early termination of the lease.
- C.** You will not do anything that will interfere with our interest in your property.
- D.** In order to ensure that your entire interest in your property is charged to us you will sign any other documents or do anything further that we think necessary.

**6. WE ARE UNDER NO OBLIGATION TO MAKE ADVANCES TO YOU UNDER THIS MORTGAGE.**

If for any reason we do not wish to advance the entire principal amount or any part of it to you:

- We are not bound to advance the principal amount or any part of it to you, even though the mortgage is prepared, signed or registered. However, by signing this mortgage you convey (transfer) all of your interest in your property to us. You will reimburse us on demand for all our expenses of investigating the title to your property and preparing and registering this mortgage.
- Until we are reimbursed for our expenses they shall be a charge against your property and they will be added to the loan amount. If you do not pay our expenses, the terms for **Enforcing our Rights** shall apply.

**7. TAXES.**

- A.** You will make monthly payments to us on account of the property taxes payable on your property so that we may pay the taxes when they become due.
- B.** 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.
- C.** You will make monthly payments to us on account of taxes. These payments will be made on the same dates that your regular monthly loan payments are to be paid to us. Each monthly payment will consist of 1/12th of our estimate of a year's taxes next becoming due and payable. The monthly payments should enable us to pay all taxes on or before the annual due date for the taxes. Or, if your taxes are payable in instalments, the monthly payments should enable us to pay each and every instalment of taxes on your property on or before the date on which the first instalment is due.
- D.** If, however, the annual due date or the first instalment date for the payment of your taxes is less than one year from the interest adjustment date, you will 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 those periods.
- E.** You will also pay to us on demand any amount by which the actual taxes on your property exceed our estimate of your taxes. Or, at our option, we may increase the monthly payment to cover this amount.
- F.** We will pay your taxes from the monthly payments we receive from you as long as you are not in default under this mortgage. We are not obliged to make tax payments on the due dates or more often than once a year. 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 will be added to the loan amount and will be a charge against your property. We are under no obligation to advise you that a debit balance has been created.
- G.** 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 The Bank of Nova Scotia ("the Bank") 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.

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

**I.** You will send us immediately upon their receipt, all assessment notices, tax bills or tax notices which you receive. Failure to do so may result in additional charges or fees from municipality.

## **8. PAYMENTS WE CAN MAKE.**

We can pay off any claims or encumbrances against your property which we consider to have priority over this mortgage. We can also pay all our expenses of collecting any payments not received from you when due. These expenses will include all our legal expenses on a solicitor and own client basis. You must immediately reimburse us at our request for the payment of all claims or encumbrances against your property and our expenses all of which have been paid by us. Until paid, the payments will all be added to the loan amount and will be a charge against your property. Interest is payable by you on the payments made by us at the interest rate payable on the loan amount until they are paid to us in full. We may also exercise our right to collect the payments from you together with interest due and payable, under **Enforcing our Rights**.

If we pay off any claims or encumbrances against your property, we will be entitled to all the rights, equities and securities of the person, company, corporation or Government so paid off.

## **9. TRANSFER OF LEASES AND RENTS.**

**A.** If you have leased, or at a later date, lease all or part of your property, then at our request to you in writing, you will transfer and assign to us:

- i) All leases, lease agreements and their renewals (for which you must first obtain our written consent), other than the renewals which are provided for in any lease;
- ii) All rents and other money payable under the terms of all leases and agreements. However, we may allow you to receive the rents so long as there is no default by you in making your payments to us or in complying with your obligations to us under this mortgage; and
- iii) All rights under the leases and agreements as they affect your property.

### **B. In addition, you confirm that:**

- i) You must obtain our prior written consent for any future leases of your property;
- ii) Nothing we do under this paragraph 9 shall put us in possession of your property;
- iii) However, if you default under this mortgage, we have the right to take possession of your property ; and
- iv) We are not obligated to collect any rent or other income from your property nor to comply with any term of any lease or agreement.

## **10. INSURANCE.**

You will without delay insure, and keep insured in our favour and until this mortgage is discharged, all buildings covered by this mortgage (including those which will be built in the future both during construction and afterwards) against loss or damage by fire and other perils usually covered in fire insurance policies and against any other perils we request. Your policy must be in a form satisfactory to us and must include extended perils coverage and a mortgage clause stating that loss is payable to us. You must keep the buildings insured for their replacement cost (the maximum amount for which the buildings can be insured) in Canadian dollars, by a company approved by us. If in our opinion, you do not provide adequate insurance we can obtain insurance for you. What we pay for this insurance will immediately become payable by you to us. Any premium paid by us may be added to the loan amount and will be a charge against your property. Interest is payable by you on the premiums paid by us at the interest rate payable on the loan amount until they are paid by you to us. You shall at our request, transfer to us all insurance policies and receipts you have on the buildings and any proceeds from that insurance. At our request, you will give the insurance policies to us.

If you do not:

- Maintain adequate insurance, as required in this paragraph, on the buildings;
- Deliver a copy of any insurance policy or receipt to us at our request, or
- Provide us with evidence at our request of any renewal or replacement of the insurance, at least fifteen full days before your insurance expires or is terminated,

we can, but are not obliged to insure any of the buildings. What we pay for this insurance shall be added to the amount you owe under this mortgage and shall bear interest at the mortgage interest rate. You will pay this amount with your next monthly payment.

If any loss or damage occurs, you will provide us immediately, at your expense, with all necessary proofs of claim. You will also do all necessary acts to enable us to obtain payment of insurance proceeds. The production of this mortgage will be sufficient authority for an insurance company to pay us any loss related to the insurance policy or to accept instructions from us dealing with the loss.

Insurance proceeds may, in whole or in part, at our option be:

- a) Applied to rebuild or repair the damaged buildings; or
- b) Paid to you; or
- c) Paid to any other person who owns or did own the property as established by the registered title; or
- d) Applied, at our sole discretion, to the loan amount outstanding in whole or in part, whether due or not yet due.

## **11. KEEPING YOUR PROPERTY IN GOOD CONDITION.**

You shall keep your property in good condition and make any repairs needed. You shall not do anything, or let anyone else do anything, that lowers the value of your property. We can inspect your property at any reasonable time. If, in our opinion, you:

- Do not keep your property in good condition; or
- Do or allow anything to be done that lowers the value of your property;

we can make any repairs needed. The costs of any inspections and needed repairs are immediately payable by you. Until paid the costs will be added to the loan amount and will be a charge against your property. Interest is payable by you on these costs at the interest payable on the loan amount until the costs are paid to us in full.

## **12. ENVIRONMENTAL PROVISIONS.**

We (including, in this section, the Canada Mortgage and Housing Corporation if this is a CMHC-insured mortgage) may inspect your property and the buildings on it when we consider it appropriate. We may do this for any purpose but particularly to conduct environmental testing, site assessments, investigations or studies which we consider necessary. The costs of any testing, assessment or study will be payable by you and you will pay us the costs immediately after we give you notice of them. If you do not pay us when we request it, we can add the amounts to the outstanding balance under your mortgage and they will bear interest at your mortgage interest rate. If we do the things permitted under this section, we will not be considered to be in control of your property.

## **13. REPAYMENT OF LOAN AMOUNT ACCELERATED.**

The loan amount together with all interest which is due and payable and to which we are entitled becomes immediately payable, at our option, if:

- a) You default in paying any regular monthly loan payments, any portion of the loan amount, any interest that is due and payable or any other payment you are obliged to pay us.
- b) You fail to comply with any of your obligations under this mortgage.
- c) Any lien is registered against your property or we receive written notice of any lien that is created as a result of unpaid property taxes, unpaid condominium maintenance fees, judgments or construction liens or other similar encumbrances.
- d) Your property is abandoned.
- e) Any buildings being erected or additions, alterations or improvements done on your property remain unfinished without work being done on them for 30 consecutive days.
- f) You do or allow anything to be done to lessen the value of your property.
- g) For a VRM without a Cap Rate, the loan balance ever exceeds 105% of the original advanced amount.
- h) You, or any party using your property with your permission, uses your property for illegal purposes.

## **14. APPOINTING A RECEIVER TO RECEIVE INCOME.**

If you default in making your regular monthly loan payments or any other payments which you have agreed to make to us, or in complying with your obligations under this mortgage, we can, in writing, appoint a receiver to collect any income from your property. We can also, in writing, appoint a new receiver in place of any receiver appointed by us. The receiver is considered to be your agent and his defaults are considered your defaults.

### **The receiver has the right to:**

- Use any legal remedy (taken in your name or our name) to collect the income from your property.
- Take possession of your property or part of it.
- Manage your property and maintain it in good condition.

### **From the income collected the receiver may:**

- a) Retain a commission of 5% of the total money received or any higher rate permitted by a judge or other authorized officer.
- b) Retain enough money to repay disbursements spent on collecting the income.
- c) Pay all taxes, fire insurance premiums, expenses of keeping your property in good condition, interest on those payments and all other charges and interest on those charges that have priority over this mortgage.
- d) Pay us all interest that is due and payable under this mortgage and then pay us all or part of the loan amount whether it is due or not.

Nothing done by the receiver puts us in possession of your property nor makes us accountable for any money except for money actually received by us.

## **15. ENFORCING OUR RIGHTS.**

**A.** If you default in making your regular monthly loan payments or any other payments that you are obliged to make to us under the terms of this mortgage we may enforce any one or more of the following remedies in any order:

- i) **Sue you** – We may take such action as is necessary to collect the unpaid balance of the loan amount, the interest that is due and payable and our expenses.
- ii) **Sell your property through court** – We may ask a court to order the sale of your property, If the court makes such an order, it will supervise the sale proceedings. The net proceeds of the sale will be used to pay off our expenses, the interest that is due and payable and the unpaid balance of the loan amount. Any balance remaining after all claims have been satisfied will be paid to you. If the amount we receive from the sale of your property is less than what you owe us plus our expenses, you must pay us the difference.
- iii) **Other** – We may take any other remedy available to us under Nova Scotia law.

**B. Our expenses** – You will immediately pay all our expenses of enforcing our rights. Our expenses include our costs of taking or keeping possession of your property, an allowance for the time and services of SMC's and/or the Bank's employees utilized in so doing, our legal fees on a solicitor and own client basis and all other costs related to protecting our interest under this mortgage. All our expenses are immediately payable by you. Until paid our expenses will be added to the loan amount and will be a charge against your property. Interest is payable by you on our expenses at the interest rate payable on the loan amount until our expenses are paid to us in full. These expenses can be deducted from the net proceeds of any sale or lease of your property. If the net proceeds from the sale or lease do not cover our expenses you must pay us the difference immediately.

**C. Judgments** – If we obtain a court judgment against you for your failure to comply with any of your obligations to us under this mortgage, the judgment will not result in a merger of the terms of the judgment with our other remedies or rights

to enforce your other obligations under this mortgage. We continue to be entitled to receive interest on the loan amount at the rate charged on the loan amount and at the same times as provided for in this mortgage. The rate of interest payable on any judgment until it has been paid in full shall be calculated and payable in the same way as interest is calculated under this mortgage and at the same interest rate paid on the loan amount until the judgment has been paid in full.

#### **16. DELAY IN ENFORCEMENT OF OUR RIGHTS.**

No delay or extension of time granted by us to you or any other person, in exercising the enforcement of any of our rights under this mortgage nor any agreement referred to in paragraph 19 shall affect our rights to:

- a) Receive all payments you are obliged to make to us, when they are due and payable.
- b) Demand that you repay the loan amount and all interest which is due and payable, on any default by you.
- c) Have you comply with all of your obligations to us under this mortgage.
- d) Have any other person comply with the obligations that person has to us under this mortgage.

#### **17. BUILDING MORTGAGE TERMS.**

If you are having any buildings or improvements constructed on your property you will have them constructed only according to plans and specifications approved in writing by us in advance. You must complete all such buildings or improvements as quickly as possible. We will make advances (part payments of the principal amount) to you based on the progress of the construction, until either completion and occupation or sale of your property. We will determine whether or not any advances will be made and when they will be made.

#### **18. RELEASING YOUR PROPERTY FROM THIS MORTGAGE.**

We may establish the terms for the releasing of our interest in all or part of your property, from this mortgage, whether we receive value for our release or not. This means making a provision for discharging or partially discharging your property. If we release part of your property at any time from this mortgage, the rest of your property will continue to secure the loan amount and all interest payable to us under this mortgage. We are only accountable for money actually received.

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

If any part of the property, or any land adjoining the property, is taken by the exercise of any power of expropriation or similar power, the entire compensation which you may be entitled to receive shall, at our option, be applied to reduce the balance of the mortgage including any penalty, fee or interest to which we have a right under this mortgage or the relevant legislation.

We can release you, the guarantor or any other person from performing any obligation contained in the mortgage or any other security document, without releasing any part of your property secured by this mortgage or any other security. And any such release shall not release any other person from the obligations in this mortgage.

#### **19. RENEWING OR OTHERWISE AMENDING THE MORTGAGE.**

We may from time to time enter into one or more written agreements with you (or with any one to whom your property is transferred) to amend the mortgage by extending the time for payment, renewing it or its term for further periods of time, changing the interest rate payable under the mortgage or otherwise altering the provisions of the mortgage.

You agree to pay all money owing under the mortgage on the maturity date or, if we have offered to renew your mortgage, to enter into a renewal agreement with us on or before the maturity date. If you do not, provided that we have not advised you that we will not renew your mortgage, you agree that the mortgage will be automatically renewed on the renewal terms we indicate in the renewal agreement, including all the other terms and conditions stated in the renewal agreement.

Whether or not there are any encumbrances on your property in addition to the mortgage at the time the agreement is entered into, it will not be necessary to register the agreement on title in order to retain priority for the mortgage, as amended, over any instrument registered after the mortgage. Any reference in this set of standard charge terms to the mortgage means the mortgage as amended by any such agreement or agreements.

#### **20. DISCHARGE.**

When our interest in your property comes to an end, we will prepare for you a full release of our claim which is called a Discharge of Mortgage (the **Discharge**) or, if requested by you, an assignment of the mortgage. You will give us a reasonable time in which to prepare and sign either the Discharge or the assignment. You will pay our usual administrative fee for preparing, reviewing or signing either document and all legal and other expenses we incur in so doing. You will be responsible for registering and for the costs of registering any Discharge or assignment.

#### **21. HEADINGS.**

Headings form no part of this mortgage. They are used so that parts of the mortgage can easily be referred to.

#### **22. NO DEDUCTIONS.**

You agree that all payments that you make to us or that we ask you to make will be made in full without any set off, abatement, counterclaim, deductions or withholdings whatsoever. You agree that you do not have a right to cancel, offset or reduce any payment or debt by any amount we owe you.

#### **23. CONDOMINIUM PROVISIONS.**

If your property is a condominium unit, you are to comply with the obligations set out in the Schedule entitled CONDOMINIUM PROVISIONS which is attached to and is part of this Mortgage.

**23. IF YOUR PROPERTY IS A CONDOMINIUM UNIT, YOU ARE TO COMPLY WITH THE FOLLOWING OBLIGATIONS.**

(In this paragraph, The Condominium Act as amended or re-enacted is called the Act. Expressions used below which are the same as those in the Act have the same meaning as those in the Act, except that the expression condominium property has the same meaning as the word "property" in the Act.)

- A.** You will comply with all of the obligations contained in this mortgage except as they may be modified by the Act, the declaration, by-laws, and rules of the condominium corporation (the corporation) concerning your property and by the provisions contained in this paragraph.
- B.** You will comply with the Act, the declarations, by-laws and rules of the corporation.
- C.** You will provide us with proof of your compliance from time to time as we may request.
- D.** You will pay the common expenses for your property to the corporation on the due dates. Or, if we exercise our right to collect your contribution towards the common expenses from you, you will pay the same to us upon being so notified. We can accept a statement which appears to be issued by the corporation as conclusive evidence for the purpose of establishing the amounts of the common expenses and the dates those amounts are due.
- E.** You will forward to us any notices, assessments, bylaws, rules and financial statements of the corporation.
- F.** You will provide us, on request, with any documents and information that you receive from the corporation or are entitled to receive.
- G.** You will maintain all improvements made to your unit and repair them after damage.
- H.** You will not do or [at anyone else do anything that lowers the value of your property.
- I. Insurance** – In addition to the insurance which the corporation must obtain, you must:
  - i) Insure all improvements which you or previous owners have made to your unit;
  - ii) Obtain insurance for those additional risks that we require;
  - iii) Insure your common or other interest in buildings (whether presently existing or built in the future, both during construction and afterwards) which are part of the condominium property or assets of the corporation if the corporation fails to insure the buildings as required or if we require you to do so;
  - iv) Assign your insurance policies to us and (as far as permitted by law) your interest in the policies held by the corporation;
  - v) Provide us with proof that the required insurance is in force, as well as evidence of any renewal or replacement of the insurance, within fifteen full days before the insurance expires or is terminated.
  - vi) Do all that is necessary to collect insurance proceeds.

Each of your insurance policies (and those of the corporation) must comply with the following:

- Your property must be covered against destruction or damage by fire and other perils usually covered in fire insurance policies for the replacement cost (the maximum amount for which it can be insured) in Canadian dollars;
- We may stipulate the risks and perils which must be covered and what amounts you must insure for;
- We may approve the insurance company; and
- We may say what terms the policy must contain.

With respect to the corporation's insurance, we have the right to have the insurance proceeds used, as permitted by law, to repair or rebuild the buildings or to repay the loan amount and interest which is due and payable in full or in part or both.

If you fail to insure your property as required in this paragraph, we can, but are not obliged to, obtain any insurance which you are required to obtain. What we pay for this insurance will immediately become payable by you to us. If any loss or damage occurs, you, on behalf of the condominium corporation and yourself, will provide us immediately, at your expense, with all necessary proofs of claim. You will also do all necessary acts to enable us to obtain payment of insurance proceeds. You will seek to ensure the full compliance by the condominium corporation with its duties and obligations under the **Condominium Act** and the Declaration and By-Laws of the condominium corporation.

**J. You Must Pay Certain Other Expenses** – In addition to our other rights and remedies contained in the mortgage you will pay to us on demand, all our expenses in relation to:

- Any by-law, resolution, rule or other matter (other than one for which only a vote of the majority present at the meeting is required);
- The enforcement of our right to have the corporation or any owner comply with the Act, declaration, by-laws and rules; and
- Our exercising any voting rights we may have.

Where our expenses relate to other units as well as to your property, the amount you are required to pay will only be the expenses related to your property as we determine. All our expenses are immediately payable by you. Until paid our expenses will be added to the loan amount and will be a charge against your property. Interest is payable by you on our expenses at the interest rate payable on the loan amount until our expenses are paid in full to us.

**K. Voting Rights** – You authorize us to exercise your rights under the Act to vote, consent and dissent. You also authorize us to exercise your right to :

- Demand the corporation purchase your unit and common interest, where provided under the Act.
- Elect to have the value of your unit and common interest or that of the condominium property determined by arbitration.
- Receive your share of the corporation's assets and the proceeds from the sale of your unit and common interest or of the condominium property or any part of the common elements.

If we do not exercise your rights, you may do so, but you will do so according to any instructions we may give you. Before making a demand or election you must obtain our prior written approval. You must do this even if we do not have the right as between ourselves and the corporation, and even if we had previously arranged for you to exercise that right.



Nothing done under this paragraph puts us in possession of your property. We are not liable for any action we may take in doing what you have authorized us to do or for any failure to act. We may at any time revoke any arrangement we make for you to do anything you have authorized us to do.

**L. Our Additional Rights under the Mortgage** – You authorize us to do the following:

- i) Inspect your property at any reasonable time.
- ii) Do any needed maintenance or repairs after damage.
- iii) Inspect the corporation's records.
- iv) Remedy any failure of yours to comply with the Act or the declaration, by-laws and rules of the corporation.

**M. Repayment of your Mortgage may be Accelerated** – The loan amount together with all interest which is due and payable and to which we are entitled becomes immediately payable, at our option if:

- i) The corporation fails to comply with the Act and declaration, by-laws and rules of the corporation;
- ii) The corporation fails to:
  - insure all the condominium units and common elements according to law and according to any additional requirements of ours;
  - insure its assets if we so require and according to our requirements;
  - provide us with proof that the insurance is in force, if we ask for it, or
  - do all that is necessary to collect insurance proceeds;
- iii) The corporation does not in our opinion manage the condominium property and assets in a careful way;
- iv) The corporation fails to keep the corporation's assets in good repair and working order;
- v) The corporation makes any substantial modification to the common elements or the corporation's assets without our approval;
- vi) There has been substantial damage and the owners have voted for termination of the condominium;
- vii) A sale of the condominium property or any part of the common elements is authorized;
- viii) A court makes an order that the government of the condominium property by the Act be terminated;
- ix) The condominium property ceases to be governed by the Act;
- x) You fail to comply with your obligations in this paragraph 22.

Our rights will not be affected by the fact that we voted for or consented to the above termination, sale or order or to the condominium property not being governed by the Act.

**N. What we can do on Termination of the Corporation** – If your property ceases to be governed by the Act;

- All the terms of this mortgage apply to your interest in your property;
- You authorize us to agree with anyone to a partition of the condominium property. We can also pay or receive money to ensure that the partition is equal. And, we can execute all documents and do all acts needed to carry out the partition;
- Any money received by us (after payment of all our expenses) will be applied to reduce your loan amount.

## 24. EQUIVALENT RATES

The interest rate payable on the loan amount under the mortgage is calculated monthly not in advance. The table below sets out what would be the equivalent interest rate if the interest rate were calculated half-yearly not in advance.

Interest Rate per annum calculated monthly not in advance (%)	Equivalent Interest Rate per annum calculated half-yearly not in advance (%)	Interest Rate per annum calculated monthly not in advance (%)	Equivalent Interest Rate per annum calculated half-yearly not in advance (%)
2.0000	2.00835	11.500	11.77907
2.1250	2.13443	11.625	11.91021
2.2500	2.26057	11.750	12.04141
2.3750	2.38678	11.875	12.17269
2.5000	2.51306	12.000	12.30403
2.6250	2.63940	12.125	12.43544
2.7500	2.76580	12.250	12.56692
2.8750	2.89228	12.375	12.69846
3.000	3.01881	12.500	12.83008
3.125	3.14542	12.625	12.96176
3.250	3.27208	12.750	13.09351
3.375	3.39882	12.875	13.22533
3.500	3.52562	13.000	13.35721
3.625	3.65249	13.125	13.48916
3.750	3.77942	13.250	13.62118
3.875	3.90642	13.375	13.75327
4.000	4.03348	13.500	13.88543
4.125	4.16061	13.625	14.01766
4.250	4.28781	13.750	14.14995
4.375	4.41507	13.875	14.28231
4.500	4.54240	14.000	14.41474
4.625	4.66979	14.125	14.54724
4.750	4.79725	14.250	14.67981
4.875	4.92478	14.375	14.81244
5.000	5.05237	14.500	14.94514
5.125	5.18003	14.625	15.07791
5.250	5.30776	14.750	15.21075
5.375	5.43555	14.875	15.34366
5.500	5.56341	15.000	15.47664
5.625	5.69133	15.125	15.60968
5.750	5.81932	15.250	15.74279
5.875	5.94738	15.375	15.87597
6.000	6.07550	15.500	16.00922
6.125	6.20369	15.625	16.14254
6.250	6.33195	15.750	16.27593
6.375	6.46027	15.875	16.40939
6.500	6.58866	16.000	16.54291
6.625	6.71711	16.125	16.67650
6.750	6.84564	16.250	16.81016
6.875	6.97423	16.375	16.94389
7.000	7.10288	16.500	17.07769
7.125	7.23160	16.625	17.21156
7.250	7.36039	16.750	17.34550
7.375	7.48925	16.875	17.47950
7.500	7.61817	17.000	17.61358
7.625	7.74716	17.125	17.74772
7.750	7.87621	17.250	17.88193
7.875	8.00534	17.375	18.01621
8.000	8.13452	17.500	18.15056
8.125	8.26378	17.625	18.28498
8.250	8.39310	17.750	18.41947
8.375	8.52249	17.875	18.55403
8.500	8.65195	18.000	18.68865
8.625	8.78147	18.125	18.82335
8.750	8.91106	18.250	18.95811
8.875	9.04072	18.375	19.09295
9.000	9.17045	18.500	19.22785
9.125	9.30024	18.625	19.36282
9.250	9.43010	18.750	19.49786
9.375	9.56002	18.875	19.63297
9.500	9.69002	19.000	19.76815
9.625	9.82008	19.125	19.90340
9.750	9.95021	19.250	20.03872
9.875	10.08040	19.375	20.17411
10.000	10.21066	19.500	20.30956
10.125	10.34099	19.625	20.44509
10.250	10.47139	19.750	20.58068
10.375	10.60185	19.875	20.71635
10.500	10.73238	20.000	20.85208
10.625	10.86298		
10.750	10.99365		
10.875	11.12438		
11.000	11.25519		
11.125	11.38605		
11.250	11.51699		
11.375	11.64800		

**25. CONSENT OF SPOUSE**

By signing this mortgage each spouse of a borrower consents to this mortgage and releases any interest which he or she may have in the property covered by this mortgage as far as necessary to give effect to our rights under this mortgage.

**26. WHO IS BOUND BY YOUR MORTGAGE**

You agree to observe and be bound by all of the terms and obligations contained in this mortgage. This mortgage will also be binding on your heirs, personal and legal representatives, successors or assigns, our successors, assigns or legal representatives and anyone else to whom your interest is transferred. As well, it will be binding on anyone to whom it is transferred from us. All borrowers signing this mortgage are collectively and individually (that is jointly and severally) bound to comply with all obligations under this mortgage.

**27. SIGNING THIS MORTGAGE.**

If you have read this mortgage and you agree to its terms, sign in the spaces provided for your signatures. Witnesses must sign in the spaces provided for the witnesses' signatures. Necessary legal seals should be added next to your signatures.

You acknowledge receiving a copy of this mortgage.

X  
\_\_\_\_\_  
WITNESS

X  
\_\_\_\_\_  
BORROWER (Seal)

X  
\_\_\_\_\_  
WITNESS

X  
\_\_\_\_\_  
BORROWER (Seal)

X  
\_\_\_\_\_  
WITNESS

X  
\_\_\_\_\_  
SPOUSE OF BORROWER (Seal)

**GUARANTEE**

In return for SMC making this loan to the borrower, I guarantee the borrower's payments (including interest, whether or not the interest rate is changed) and compliance with the borrower's other obligations, under this mortgage. If the borrower defaults in making any payment or in performing any other obligation under this mortgage, I will pay SMC all of the unpaid payments and comply with all of the obligations which have not been complied with by the borrower. I will be collectively and individually (that is jointly and severally) responsible with the borrower for all obligations under this mortgage.

It is understood that SMC can without lessening the guarantor's liability and without obtaining the consent of or giving notice to the guarantor:

- Grant any extensions of time for payment and extensions of the term of the mortgage, including any renewals of the mortgage or its term for further periods of time;
- Increase the rate of interest payable under the mortgage, either during the initial term or in any subsequent renewal period;
- Release the whole or any part of the property from the mortgage or any other security;
- Otherwise deal with the borrower, any other person (including any guarantor), any security (including the mortgage) or the property, including releasing, realizing on or replacing any security we may hold;
- Waive any provisions of the mortgage or change any of the terms of the mortgage at any time during the initial term of the mortgage or in any subsequent renewal period;

either before or after requiring payment from any person without affecting the guarantee. SMC may require payment from any guarantor without first trying to collect from the borrower or any other person (including any guarantor) or any security (including this mortgage). My guarantee of this mortgage shall be binding upon my successors or personal representatives.

Where there is more than one guarantor, each guarantor agrees with SMC to be collectively and individually (that is jointly and severally) responsible under this guarantee with the other guarantors and the borrower.

I acknowledge receiving a copy of this mortgage. Dated as of the date of this mortgage.

X  
\_\_\_\_\_  
WITNESS

X  
\_\_\_\_\_  
GUARANTOR (Seal)

X  
\_\_\_\_\_  
WITNESS

X  
\_\_\_\_\_  
GUARANTOR (Seal)

**CERTIFICATE OF ACKNOWLEDGEMENT OF WITNESS**

On \_\_\_\_\_,  
a subscribing witness to the foregoing mortgage personally appeared before me. The witness having been duly sworn by me, made oath and said that

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- the party (parties) to the mortgage did sign, seal and deliver it in his/her presence.
- \_\_\_\_\_  
(name of corporation)

caused the mortgage to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by its proper officers in his/her presence.

\_\_\_\_\_  
A Commissioner of the Supreme Court of Nova Scotia  
\*A Notary Public in and for \_\_\_\_\_

*\*Where affidavit is sworn outside Newfoundland, it must be sworn before a notary public in and for the place where sworn and he must impress his official seal here.*

**AFFIDAVIT OF LEGAL AGE AND SPOUSAL STATUS**

I/We, \_\_\_\_\_  
of \_\_\_\_\_  
in the \_\_\_\_\_ of \_\_\_\_\_, make oath and say:

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1. The Matrimonial Property Act as amended is referred to in this affidavit as the "Act". I(We) have read the definitions of "spouse"<sup>1</sup> and "matrimonial home"<sup>2</sup> below.
2. I am (We are each) at least 19 years of age.
3.  We are spouses of one another and neither of us has any other spouse nor, with respect to the within property, (i) any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or (ii) any former spouse with rights under the *Matrimonial Property Act*.
  - I was not a spouse at the time of making this mortgage and, with respect to the within property, I have no (i) former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or (ii) former spouse with rights under the *Matrimonial Property Act*.
  - I am a spouse and \_\_\_\_\_ is my only spouse and I have no other spouse, or, with respect to the within property (i) any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or (ii) former spouse with rights under the *Matrimonial Property Act*.
  - I am a spouse and I have no other spouse, or, with respect to the within property (i) any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or (ii) former spouse with rights under the *Matrimonial Property Act*.
4.  The property covered by this mortgage has never been occupied by me and my spouse as our matrimonial home.
  - My spouse has released all rights to the property covered by this mortgage by a separation agreement.<sup>4</sup>
  - My spouse has released all rights to the property covered by this mortgage by a marriage contract.<sup>5</sup>
  - The property covered by this mortgage is not designated as a matrimonial home under section 8(1)(d) of the Act and an instrument designating another property as a matrimonial home of me and my spouse is registered under section 7(1) and not cancelled.

CHECK  
ANY  
BOX  
WHICH  
APPLIES

(SEVERALLY) SWORN before me

at the \_\_\_\_\_ of \_\_\_\_\_ ) X \_\_\_\_\_  
in the \_\_\_\_\_ of \_\_\_\_\_ ) X \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ )

\_\_\_\_\_  
A Commissioner of the Supreme Court of Nova Scotia.  
<sup>3</sup> A Notary Public in and for \_\_\_\_\_

<sup>1</sup> "Spouse" means either of a man and woman who  
(i) are married to each other,  
(ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity, or  
(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year.  
"Spouse" also includes an individual who is a party to a registered domestic partner declaration made in accordance with Section 53 of the *Vital Statistics Act* but does not include a former domestic partner.

<sup>2</sup> "Matrimonial home" means the dwelling and real property occupied by a person and that person's spouse as their family residence and in which either or both of them have a property interest other than a leasehold interest.

<sup>3</sup> Where affidavit is sworn outside Nova Scotia, it may be sworn before a notary public in and for the place where sworn and he must impress his official seal here.

<sup>4</sup> "Separation Agreement" means an agreement in writing between spouses who are living or intend to live separate and apart.

<sup>5</sup> "Marriage Contract" means a marriage contract pursuant to Section 23 of the *Matrimonial Property Act*.

DATED \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(mortgagor)

TO

SCOTIA MORTGAGE CORPORATION  
(mortgagee)

c/o The Bank of Nova Scotia

Branch address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

# MORTGAGE

Solicitor for the mortgagee