



Collateral Mortgage

*Land Titles Act, S.N.B. 1981, c.L-1.1, s.25
Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2*

Parcel Identifier: _____

Mortgagor: _____
name

_____ address

_____ name

_____ address

Spouse of: _____
name

_____ address
(name of Mortgagor)

Mortgagee: THE BANK OF NOVA SCOTIA

_____ branch address

Manner of Tenure: _____
NOT APPLICABLE or joint tenants, tenants in common, nothing specified or description of variable interests

Limitation of Right, Title or Interest Mortgaged: Fee Simple Absolute

Particulars of Security: See Schedule "G" attached

Statutory Covenants and Conditions Excluded: 101, 102, 103, 104, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, 119

Optional Covenants and Conditions Included: BNS- 33

The mortgagor mortgages in fee simple absolute to the mortgagee in the specified manner of tenure the specified parcel as collateral security, the particulars of which are specified.

The mortgagor acknowledges receipt of the text of the covenants and conditions which are contained in this mortgage by reference to a distinguishing number or by virtue of subsection 25(4) of the *Land Titles Act*, and agrees to be bound by them to the same extent as if set out at length herein.

The spouse of the mortgagor joins in this instrument and consents to this disposition for the purpose of complying with section 19 of the *Marital Property Act*.

Dated: _____

WITNESS: _____

(signature)

(signature)

MORTGAGOR: _____

(signature)

(signature)

WITNESS: _____

(signature)

Spouse of Mortgagor: _____

(signature)

SCHEDULE "G"

to a Collateral Mortgage made between

and **THE BANK OF NOVA SCOTIA** and dated _____

PARTICULARS OF SECURITY

The mortgagor mortgages in fee simple absolute to the mortgagee the parcel bearing Parcel Identifier _____ as collateral security for payment to the mortgagee on demand of the obligations secured by this mortgage up to a maximum principal amount of \$_____, plus interest at a maximum rate equal to the prime lending rate of The Bank of Nova Scotia from time to time plus _____% per annum, calculated on a daily basis and payable monthly, both before and after maturity and default, and interest on overdue interest at the same rate and calculated and payable in the same way, plus the additional amounts payable under the heading "We may recover our expenses" in the optional covenants and conditions attached to this mortgage. In this mortgage, the obligations secured include all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the mortgagor to the mortgagee or remaining unpaid by the mortgagor to the mortgagee, whether arising from dealings between the mortgagor and the mortgagee or from any other dealings or proceedings by which the mortgagee may be or become in any manner whatever the creditor of the mortgagor, and wherever incurred, and whether incurred by the mortgagor alone or with another or others and whether as principal or surety including the additional amounts payable as expenses under this mortgage. If the obligations secured by this mortgage exceed the maximum principal amount or rate of interest stated above, the mortgagee may decide what part of them is secured by this mortgage.

SCHEDULE "G"

to a Collateral Mortgage made between

and **THE BANK OF NOVA SCOTIA** and dated _____

PARTICULARS OF SECURITY

The mortgagor mortgages in fee simple absolute to the mortgagee the parcel bearing Parcel Identifier _____ as collateral security for payment to the mortgagee on demand of the obligations secured by this mortgage. In this mortgage, the obligations secured include all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the mortgagor to the mortgagee or remaining unpaid by the mortgagor to the mortgagee, whether arising from dealings between the mortgagor and the mortgagee or from any other dealings or proceedings by which the mortgagee may be or become in any manner whatever the creditor of the mortgagor, and wherever incurred, and whether incurred by the mortgagor alone or with another or others and whether as principal or surety including the additional amounts payable as expenses under this mortgage.

OPTIONAL COVENANT AND CONDITION NO. BNS-33

DEFINITIONS

In this mortgage **you** and **your** mean each person who has signed this mortgage as mortgagor. **We, our** and **us** mean the mortgagee, The Bank of Nova Scotia. The property covered by this mortgage is referred to in this mortgage as **the property**.

1 BUILDINGS ON, ADDITIONS AND ALTERATIONS TO THE PROPERTY

Any buildings on the property and any other property that is at any time attached or fixed to the land or buildings or placed on and used in connection with them are covered by this mortgage. Additions, alterations and improvements are also covered by this mortgage.

2 OUR SECURITY

(a) What this mortgage does

You grant, bargain, sell and mortgage to us the property in fee simple, to have and to hold to our use, as security for the repayment of the obligations secured. This means you give your entire interest in the property to us and our successors and assigns (called our **legal representatives**) and to anyone to whom this mortgage is transferred in any way.

This mortgage secures a current or running account. Although this mortgage is not satisfied or discharged by any intermediate payment of all or part of the obligations secured but is a continuing security for payment of the obligations secured, our interest in the property under this mortgage will end when:

- you have repaid the obligations secured on our demand and repaid all additional amounts to which we may become entitled under this mortgage, and
- you have fulfilled all of your other obligations to us under this mortgage, and we have reconveyed the property to you or discharged this mortgage.

You may remain in possession of the property as long as you are not in default under any of the obligations secured or under any agreements evidencing or securing the obligations secured and as long as you meet all your other obligations to us under this mortgage.

(b) Your title to the property

You certify that you own the property covered by this mortgage; that you have the right to transfer the property to us; and that there are no restrictions, limitations or encumbrances on your title to the property or on your ability to transfer the property to us, except as set out in the **Memorandum of Encumbrances** in Schedule "D" to this mortgage. You will not do anything that will interfere with our interest in the property, and you will sign any other documents which we think are necessary to transfer to us your interest in the property.

(c) Effect of this mortgage on other obligations

This mortgage does not release you from or alter any of your other obligations to us or agreements with us. This mortgage does not affect any other security we hold for the payment of the obligations secured, or any other right we may have to enforce the payment of the obligations secured.

Our acceptance of this mortgage or our giving credit secured by this mortgage does not mean we must make credit available or continue to do so.

(d) Effect of sale or transfer of property

If you sell or transfer the property, your liability and responsibilities under this mortgage and our rights against either you or anyone else who is liable for the payment of any of the obligations secured are not affected.

(e) Effect of subdivision

If the property is subdivided, each part of the property will secure payment of the total amount of the obligations secured.

3 YOUR RESPONSIBILITIES AS TO THE PROPERTY

(a) Taxes and other charges

You will pay all taxes on the property when they are due. You will immediately give us a receipt showing that they have been paid if we ask for it. You will pay all charges, mortgages and other encumbrances on the property when they are due and comply with your other obligations under them. If you do not pay any taxes, charges, mortgages or other encumbrances when they are due, we may pay them and charge to you the amount paid as an additional amount secured under this mortgage.

(b) Insurance

You will insure with an insurer satisfactory to us and under a policy satisfactory to us all buildings covered by this mortgage against loss or damage by fire, extended perils and other perils usually covered in fire insurance policies. If there is a steam boiler or sprinkler system in those buildings, your insurance must cover loss or damage caused by an explosion of the boiler and equipment operated by it or caused by the sprinkler system. You will insure against any other risks which we require you to insure against. The buildings must be insured for their replacement cost in Canadian dollars.

If we think it is necessary we can require you to cancel any existing insurance on the property, and to provide other insurance which meets our approval. You will assign any insurance you have on the property, or the proceeds of that insurance, to us at our request. You must give us proof that you have insured as required above and you must at least 10 days before any insurance expires or is terminated give us proof that you have renewed or replaced it. If you fail in any way to comply with these obligations, we may (but we are not obliged to) obtain insurance on your behalf and charge the amount of any premium to you as an additional amount secured under this mortgage. If loss or damage occurs, you will provide us with all necessary proofs of claim and do everything else necessary to enable us to obtain payment of insurance proceeds. Insurance proceeds may, in whole or part, at our option, be used to rebuild or repair damaged buildings or be used to reduce all or part of the obligations secured.

(c) Keeping the property in good condition

You will keep the property in good condition and make any repairs that are needed. You will not do anything, or let anyone else do anything, that lowers the value of the property. If you do not keep the property in good condition, or if you do anything, or anyone else does anything that lowers the value of the property, we may make any needed repairs and charge the cost of them to you as an additional amount secured under this mortgage.

(d) Construction of buildings

If you are having any buildings or improvements constructed on the property, you will have them constructed only in accordance with plans and specifications approved in writing by us in advance. You must complete those buildings or improvements as quickly as possible.

(e) Legal requirements

You will observe and conform to all laws and requirements of any governmental authorities relating to the property.

(f) Condominiums

The following provisions apply to any condominium unit that is part of the property. In this mortgage, the Condominium Property Act 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.

- You will comply with the Act and the declaration, by-laws and rules of the corporation. You will provide us with proof of your compliance from time to time as we may request. You will forward to us copies of any notices, assessments, by-laws, rules and financial statements of the corporation. You will provide us, on request with any other documents and information that you receive from the corporation or are entitled to receive. You will maintain all improvements made to your unit and repair them after damage.
- You will insure all improvements which you or previous owners have made to your unit and insure your common or other interest in buildings which are part of the condominium property or assets of the corporation if the corporation fails to insure the buildings as required by the Act and the declaration, by-laws and rules of the corporation. These obligations are in addition to your other obligations as to insurance under any other covenant and condition as far as they apply to a condominium unit.
- You authorize us to exercise your rights under the Act to vote and to consent. If we do not exercise your rights, you may do so, but you will do so according to any instructions we may give you. We may at any time revoke any arrangement we make for you to vote or to consent. You also authorize us to inspect the corporation's records. Nothing done under this paragraph puts us in possession of your property.
- If you do not comply with the Act and the declaration, by-laws and rules of the corporation, we may comply with them and charge our costs of doing so to you as an additional amount secured under this mortgage. If we exercise our right to pay common expenses, we can accept statements that appear to be issued by the corporation as conclusive evidence of the amount of those expenses and the dates they are due. You will pay us on demand as additional amounts secured under this mortgage 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 and the declaration, by-laws and rules of the corporation and our exercising any voting rights we may have.

4 ENFORCING OUR RIGHTS

If you fail to comply with any of your obligations under this mortgage, we may enforce our rights in any of the ways set out below. These provisions do not limit any other rights given to us by law or this mortgage. We may enforce this and any other security we may have for any of the obligations secured, and enforce our rights under this mortgage, at the same time or at different times and in any order we choose.

(a) You will make immediate payment

You will immediately pay to us all of the obligations secured if any part of the obligations secured is not paid when it is due or if you fail to comply with any of your obligations under this mortgage or any other agreement to which you and we are parties.

(b) We may sue you

We may take such legal action as is necessary to collect the obligations secured.

(c) We may take possession of and collect rents

We may take and keep possession of, collect rents from, and manage the property or any part of it. You certify that we will have the right to take possession of the property or collect the rents from it.

(d) We may sell or lease the property

On giving you four weeks' notice in writing by registered or certified mail and on publishing notice in one of the public newspapers published in the Province of New Brunswick once in each week for four successive weeks and in the Royal Gazette as required by law, we can sell and dispose of the property and the appurtenances or any part of it, by public auction or private contract, for such price or prices, for cash or otherwise, as seems fit to us. All contracts that shall be entered into and all conveyances that shall be signed by us for the purpose of completing any such sale shall be valid notwithstanding the fact that you were not a party or did not consent to them. We may bid and buy at any such sale.

We may lease the property without notice at any time, in any way and on any terms which we think are reasonable.

We will use the proceeds of sale or lease to reduce or repay the obligations secured and will pay you any balance remaining after all our claims have been satisfied. If the amount we receive from the sale or lease of the property is less than what you owe, you will immediately pay the difference to us.

You agree that a buyer or lessee may pay all of the money due under a sale or lease to us without seeing to the application of the money. You agree that a buyer or lessee under a sale or lease by us will receive a good title to the property or a valid lease of the property. You will not make any claims concerning the sale or lease against the buyer or lessee or their successors in title. If you do have any claims concerning a sale or lease by us, you will make them only against us and only for money damages.

(e) We may foreclose or sell through the courts

We may commence court proceedings to foreclose the property. If we obtain a final order of foreclosure, the property will by law become our property. We may also ask a court to order a sale of the property. We may also ask a court to appoint a receiver (or receiver and manager) of the property.

(f) We may appoint a receiver

We may appoint in writing a receiver (or receiver and manager), on any terms (including remuneration) that we think are reasonable, to collect any income from the property. We may make the appointment even if we have taken possession of the property. We may also, in writing, remove a receiver appointed by us and appoint a new receiver. The receiver is considered to be your agent and not ours; his defaults are considered your defaults and not ours. Nothing done by the receiver puts us in possession of the property or makes us accountable for any money except money we actually receive.

The receiver has the right to use any legal remedy (taken in your name or our name) to collect the income from the property; take possession of the property or part of it; manage the property and any business conducted on the property and maintain the property in good condition; lease the property or any part of it; enforce any of our other rights under this mortgage which we delegate to him; and borrow money on the security of the property in priority to this mortgage for these purposes.

(g) We may recover our expenses

You will pay us on demand, as additional amounts secured under this mortgage, our expenses incurred:

- under the headings Taxes and other charges, Insurance, Keeping the property in good condition and Condominiums,
- in negotiating this mortgage, investigating title to the property and preparing and registering this mortgage,
- in collecting payment after default of the obligations secured, and
- in enforcing our rights under this mortgage,

including our reasonable legal fees on a solicitor and own client basis and interest on the total amount of our above expenses from the date we incur them to the date you pay them to us at a rate of interest equal to the prime lending rate of The Bank of Nova Scotia from time to time plus 2% per annum, calculated daily and payable monthly, both before and after maturity and default and interest on overdue interest at the same rate and calculated and payable in the same way. We may deduct our expenses from any money we owe you.

5 WE MAY USE PROCEEDS TO REDUCE ANY OBLIGATION

We may use proceeds to reduce any obligation – We may apply the proceeds we receive from enforcing our rights under this mortgage to reduce or repay any of the obligations secured in such manner as we may decide.

6 WE MAY OPEN A SEPARATE ACCOUNT

If we learn that you have disposed of or encumbered the property or any part of it, we may close your account at the amount then due to us. We may open a new account for advances and payments subsequently made and received by us. No amount paid in or credited to the new account will be applied to or have the effect of reducing or repaying any of the obligations secured due to us on the closed account when we learned of the subsequent disposition or encumbrance.

7 DELAY, RELEASES AND PARTIAL DISCHARGES

We may delay enforcing any of our rights under this mortgage or the obligations secured or any agreement evidencing or securing the obligations secured without losing or impairing those rights. We can waive any breach of your obligations under this mortgage or the obligations secured or any agreement evidencing or securing the obligations secured without losing our rights in respect of any breach of your obligations.

We may release others on any terms from any liability to repay the obligations secured without releasing you. We may on any terms discharge any part of the property from this mortgage and, if we do so, the remainder of the property not discharged will secure the total amount of the obligations secured.

8 DISCHARGE OF THIS MORTGAGE

We will reconvey the property to you or discharge this mortgage if you pay us the obligations secured on our demand. You must pay our expenses of having it prepared and of signing it. You are responsible for registering it.

9 EFFECT OF JUDGMENTS

If we obtain a court judgment against you for your failure to pay any of the obligations secured or to perform any of your obligations to us under this mortgage, the judgment will not result in a merger of your obligations under this mortgage with the judgment or take away any of our other rights to enforce the mortgage. We will continue to be entitled to receive interest on the obligations secured at the agreed rate, calculated and payable in the agreed way, and the judgment may so provide.

10 OUR RESPONSIBILITY

We are not responsible for any loss arising in the course of our enforcing our rights under this mortgage unless it results from our wilful neglect or default.

11 HOW WE MAY MAKE DEMANDS OR GIVE NOTICES

Where this mortgage allows or requires us to make a demand on or give a notice to any person (including you), we may make the demand or give the notice by delivering it personally to the person (where the person is a corporation, by delivering it personally to a director, officer or employee of the corporation) or by mailing it by prepaid registered mail addressed to the person at the person's last known address.

A notice or demand so delivered will be regarded as given or made when it is so delivered to the person or to the director, officer or employee of the corporation. A notice or demand so mailed will be regarded as given or made on the third business day after the day it is mailed, whether the person receives it or not.

12 WHO IS BOUND BY THIS MORTGAGE

This mortgage will be binding on your legal or personal representatives and anyone else to whom your interest in the property is transferred. It will be binding on our legal representatives and anyone to whom it is transferred from us. All our rights under it may be enforced by anyone to whom it is transferred from us.

If more than one person signs this mortgage, each person is jointly and severally bound to comply with all obligations of the mortgagor under this mortgage.

STATUTORY COVENANTS AND CONDITIONS

105. The mortgagor covenants with the mortgagee that all erections, buildings, machinery, plant, and improvements whatsoever, including furnaces, boilers, water heaters and all plumbing, air conditioning, ventilating and heating equipment, electric light fixtures, window blinds, storm windows and storm doors, window screens and screen doors, and all apparatus and equipment appurtenant thereto, which are now or which shall hereafter be put upon the lands and premises, are or shall thereafter be deemed to be fixtures and a part of the lands, even though not attached otherwise than by their own weight.

116. A discharge of this mortgage shall be prepared by the mortgagee at the expense of the mortgagor, and the mortgagee shall have a reasonable time after receipt of payment in full within which to prepare and execute such discharge.

FORM 44

CERTIFICATE OF EXECUTION

Land Titles Act, S.N.B. 1981, c. L-1.1, s.55

Notary Public:

_____ (name)

_____ (address)

Jurisdiction:

**Place of Residence of
Notary Public:**

**Person(s) Who Executed
the Instrument:**

_____ (name)

_____ (name)

Place of Execution:

Date of Execution:

I, the notary public, a Notary Public in and for the jurisdiction specified above and residing at the place of residence specified above, do hereby certify:

1. That the person(s) who executed the attached instrument personally appeared before me;
2. That the person(s) is/are known to me or the person's (persons') identity has been proved to my satisfaction;
3. That I explained to the person(s) the contents of the attached instrument to the best of my professional abilities;
4. That, after receiving the explanation, the person(s) executed the attached instrument voluntarily at the place and on the date specified above;
5. That the person(s) acknowledged that he/she/they is (are) of the age of majority;
6. That I have ascertained that the name by which the person(s) is/are identified in the attached instrument is (are) the person's (persons') name(s) in accordance with the *Naming Conventions Regulation* under the *Land Titles Act*, and
7. That I have signed the attached instrument next to the signature(s) of the person(s) for whom this Certificate of Execution has been prepared, with my name printed legibly underneath my signature.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial Seal.

Place: _____

Date: _____

*Notary Public: _____

** Certificate must be taken before a Notary Public in and for the place where taken and he/she must impress his/her official seal here.*

FORM 45
AFFIDAVIT OF CORPORATE EXECUTION
Land Titles Act, S.N.B. 1981, c. L-1.1, s.55

Deponent: _____
(name)

(address)

Office Held by Deponent: _____

Corporation: _____
(name)

Other Officer Who Executed the Instrument: _____
(name)

(address)

Office Held by Other Officer Who Executed the Instrument: _____

Place of Execution: _____

Date of Execution: _____

I, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
2. That the attached instrument was executed by me (and the other officer(s) specified above) as the officer(s) duly authorized to execute the instrument on behalf of the corporation;

DELETE INAPPLICABLE CLAUSE

3. That the seal of the corporation was affixed to the instrument by order of the Board of Directors of the corporation;

OR

That the corporation has no seal;

4. That the instrument was executed at the place and on the date specified above;
5. That the ownership of a share of the corporation does not entitle the owner thereof to occupy the parcel described in the attached instrument as a marital home.

SWORN TO at _____)

In the Province of _____)

On _____)

Before Me: _____)

)

_____) _____

Commissioner of Oaths Being a Solicitor)

* Notary Public)

**Where affidavit is sworn outside New Brunswick, it must be sworn before a Notary Public in and for the place where sworn and he/she must impress his/her official seal here.*

FORM 55
AFFIDAVIT OF MARITAL STATUS
Land Titles Act, S.N.B. 1981, c. L-1.1, s.81

Deponent: _____
(name)

(address)

(name)

(address)

Spouse of Deponent: _____
(name)

(address)

Date of Domestic Contract: _____

Date of Court Order: _____

I/We, the deponent, make oath and say:

1. That I am (we are) a person(s) conveying an interest in the attached instrument and have personal knowledge of the matters hereinafter deposed to;

DELETE INAPPLICABLE CLAUSES

2. That I am/we are not married;
OR
That the name of my spouse is as specified above;
3. That I/we have no former spouse with a right under the *Marital Property Act* to any interest in or possession of the subject land;
4. That the subject land has (not) been occupied by me and my spouse as our marital home;
5. That my spouse has joined in this instrument and has consented to the disposition for the purpose of complying with section 19 of the *Marital Property Act*,

OR

The signature of my spouse is not required because

my spouse has released all rights to the marital home by reason of a domestic contract dated as specified above.

OR

the marital home has been released by order of The Court of Queen's Bench of New Brunswick dated as specified above, pursuant to paragraph 23(1)(b) of the *Marital Property Act*.

OR

this disposition has been authorized by The Court of Queen's Bench of New Brunswick by order dated as specified above.

SWORN TO at the _____ of)
_____ in the _____)
of _____ on the _____)
day of _____, _____)

Before Me: _____)
_____)
_____))

Commissioner of Oaths Being a Solicitor
* Notary Public

**Where affidavit of Marital Status is taken outside New Brunswick, it must be taken before a Notary Public in and for the place where taken and he/she must impress his/her official seal here.*

(mortgagor)

– and –

THE BANK OF NOVA SCOTIA
(mortgagee)

(Branch Address)

Date _____, _____

Form 15.1

COLLATERAL MORTGAGE

Land Titles Act, S.N.B. 1981, c.L-1.1, s.25
Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2

SOLICITORS: