



PRINCE EDWARD ISLAND
Collateral Mortgage

This mortgage is made on
 BETWEEN:

(the mortgagor or mortgagors),

AND

THE BANK OF NOVA SCOTIA
 (the mortgagee),

AND

(the spouse of the mortgagor).

In this mortgage **you** and **your** mean each person who has signed this mortgage as mortgagor. **We, our** and **us** mean the mortgagee.

1 OBLIGATIONS SECURED BY THIS MORTGAGE

- (a) You give us this mortgage to secure the payment to us on demand of the debts and liabilities described in sub-paragraph (b) 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 monthly 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** below.
- The debts and liabilities secured by this mortgage are referred to in this mortgage as the **obligations secured**.
- (b) The debts and liabilities referred to in sub-paragraph (a) are all debts and liabilities present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by you to us or remaining unpaid by you to us, whether arising from dealings between you and us or from any other dealings or proceedings by which we may be or become in any manner whatever your creditor, and wherever incurred, and whether incurred by you alone or with another or others and whether as principal or surety. You agree to pay those debts and liabilities to us on demand.
- (c) If the debts and liabilities described in sub-paragraph (b) exceed the maximum principal amount or rate of interest stated in sub-paragraph (a), we may decide what part of them is secured by this mortgage.

2 DESCRIPTION OF THE PROPERTY COVERED *

Any buildings on the land described above are also covered by this mortgage. 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 is also covered by this mortgage. Additions, alterations and improvements to the buildings are also covered. The property covered by this mortgage is referred to in this mortgage as **the property**.

**If space insufficient, attach Schedule A describing property and type in above space "See attached Schedule A".*



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1 OBLIGATIONS SECURED BY THIS MORTGAGE

You give us this mortgage to secure the payment to us on demand of all debts and liabilities present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by you to us or remaining unpaid by you to us, whether arising from dealings between you and us or from any other dealings or proceedings by which we may be or become in any manner whatever your creditor, and wherever incurred, and whether incurred by you alone or with another or others and whether as principal or surety including the additional amounts payable under the heading **We may recover our expenses** below and interest on the total amount of our expenses from the date we incur them to the date you pay them to us at the interest rate equal to the prime lending rate of The Bank of Nova Scotia from time to time plus % per annum, calculated monthly and payable monthly, both before and after maturity and default, and interest on overdue interest at the same rate and calculated in the same way. The debts and liabilities secured by this mortgage are referred to in this mortgage as the **obligations secured**.

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**If space insufficient, attach Schedule A describing property and type in above space "See attached Schedule A".*

3 OUR SECURITY

(a) What this mortgage does

You grant, mortgage and appoint to us forever the property, 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 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.

4 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 in 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 Act as amended or re-enacted is called the "Act". Expressions used in provisions of this mortgage dealing with a condominium unit 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 obligations as to insurance under the heading **Insurance** 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.

5 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 the property 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

We may sell or lease the property or any part of it, if you have not paid the obligations secured 15 days after we have demanded payment of them and we have given any notice required below. Except as provided below we need not give notice of sale. We need not give any notice if you have not paid the obligations secured three months after we have demanded payment of them.

Where notice is required we will give at least 35 days' notice to the persons who appear in the register of title under instruments received up to the close of business on the day before the notice is given to have an interest in the property subsequent to ours. We may give the notice in any of the following ways:

- We may deliver it personally. Where the person is a corporation we may deliver it personally to a director, officer or employee of the corporation.
- We may send it by registered mail addressed to the person to whom it is to be given at that person's address last known to the branch of the bank to which payments are to be made or to that person's address appearing in the register of title under the instruments referred to above. A notice so sent will (in spite of paragraph **12**) be taken to have been given on the day it is mailed.
- We may leave it addressed to the person to whom it is to be given at any of the person's addresses referred to above.
- We may publish it in a newspaper circulating in the area where the property is located. This will be taken as notice to everyone who is entitled to it.
- We may give a notice to the owner and anyone entitled to occupy the property by posting it on the property.

The notice need not name the person to whom it is given except where that is specifically required above. We may give notice to a person under a disability by giving it to that person in any of the ways set out above. We may give notice to the estate of a person who has died by giving it to that person in any of the ways set out above and a notice so given will be taken to have been given to everyone interested in his estate.

We may sell or lease at any time, in any way and on any terms which we think are reasonable. If we sell on credit, we need not account for the proceeds until we receive them. We may sell anything on the land separately from the land itself. We may buy

in, rescind or vary contracts of sale and resell at any time, in any way, and on any terms which we think are reasonable. When we sell we can transfer to the buyer every interest in the property which you had power to dispose of.

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 and sell through the courts

We may commence court proceedings to foreclose and sell your property. 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.

(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.

We may also ask a court to appoint a receiver (or receiver and manager) of the property.

(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 the maximum rate stated under paragraph **1** of this mortgage. We may deduct our expenses from any money we owe you.

6 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.

7 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.

8 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.

9 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 will give us a reasonable time after payment in which to prepare and sign the reconveyance or discharge. You must pay our expenses of having it prepared and of signing it. You are responsible for registering it.

10 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.

11 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.

12 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.

13 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.

14 SIGNING THIS MORTGAGE

If you have read this mortgage and you agree to its terms, sign in the spaces provided for the mortgagors' signatures. Witnesses must sign in the space provided for the witnesses' signatures. You acknowledge receiving a copy of this mortgage. You agree that this mortgage is a deed signed, sealed and delivered by you.

X _____
Witness

X _____ (Seal)
Mortgagor

X _____
Witness

X _____ (Seal)
Mortgagor

15 CONSENT OF SPOUSE

I, _____, spouse of the mortgagor, consent to this mortgage and release to the mortgagee any interest I may have in the property covered by this mortgage as far as necessary to give effect to the mortgagee's rights under this mortgage.

X _____
Witness

X _____
Mortgagor's Spouse

MEMORANDUM OF ENCUMBRANCES

ACKNOWLEDGEMENT OF MORTGAGOR (AND SPOUSE)

On the _____ day of _____, _____, personally appeared before me _____, within named and he (she) (they) acknowledged that he (she) (they) did freely and voluntarily execute the within deed or writing, to and for the uses and purposes therein mentioned.

A Commissioner for Deeds/*A Notary Public in and for

**Where acknowledgement is taken outside Prince Edward Island, it must be taken before a notary public in and for the place where taken and he must impress his official seal here.*

AFFIDAVIT OF LEGAL AGE AND SPOUSAL STATUS

I/We _____,
of the _____ of _____,
in the _____ of _____.

MAKE OATH AND SAY:

- 1. The Family Law Reform Act is referred to in this affidavit as the Act. I (We) have read the definitions of spouse* and matrimonial home** below.
- 2. I am (We are each) at least 18 years of age.
- 3. We are spouses of one another and neither of us has any other spouse.
- I was not a spouse at the time of making this mortgage.
- I am a spouse and _____ is my only spouse.
- I am a spouse and I have only one spouse.
- 4. The property covered by this mortgage has never been occupied by me and my spouse as our matrimonial home.
- The property covered by this mortgage is not designated under section 41 of the Act as a matrimonial home, and an instrument designating another property as the matrimonial home of my spouse and me is registered under section 41 and has not been cancelled.
- My spouse has released all rights under Part III of the Act by a separation agreement.

CHECK ONE BOX ONLY

CHECK ANY BOX WHICH APPLIES

(SEVERALLY) SWORN before me _____)
at the _____ of _____)
in the _____ of _____)
this _____ day of _____, _____)

A Commissioner for Taking Affidavits in the Supreme Court
of Prince Edward Island/**A Notary Public in and for

* "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 voided by a judgement 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.

** "Matrimonial home" means property in which a married person has an interest and that is or has been occupied by the married person and his or her spouse as their family residence.

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

ACKNOWLEDGMENT OF WITNESS

On the _____ day of _____, _____, personally appeared before me,

of _____ in the _____
of _____, and being sworn, testified that he (she) is a subscribing
witness to the within deed or writing and that he (she) was present and did see the same duly executed by
_____, the mortgagor therein named.

A Commissioner for Deeds/*A Notary Public in and for

*Where acknowledgement is taken outside Prince Edward Island, it must be taken before a notary public in and for the place where taken and he must impress his official seal here.

DATED _____, _____

(mortgagor)

TO
THE BANK OF NOVA SCOTIA
(mortgagee)

Branch address _____

MORTGAGE

Solicitor for the mortgagee