

## Residential Mortgage or Hypothec Switch Agreement

**Borrower(s) name(s):**

**Mortgage Number:**

Thank you for choosing Bank of Montreal.

We've offered you a loan to switch your mortgage or hypothec to us. Our offer is in a **commitment**, consisting of Our Commitment to Lend and Disclosure Statement dated \_\_\_\_\_ and the schedule to it. Under the commitment, you must agree to the terms of our current standard agreement for a switch. We now offer to enter into that agreement.

If you want to accept our offer, please sign this agreement, have it signed by any guarantor or spouse, and return it to us. Please make sure we receive the fully signed copy no later than the date funds are to be advanced as shown in the commitment. If we receive it after then, we may, at our option, terminate the agreement.

### Agreement

We hold or are to hold the mortgage or hypothec on your property as security for a loan, and you and we want to change the terms of this mortgage or hypothec. By entering into this agreement with us, you confirm the changes. The security gives us a right to have the property used to pay what is owed.

In this agreement, **you** means each borrower named above (except in parts 15 and 17 of this agreement). **We** means Bank of Montreal. Other expressions have the meanings in part 3.

### 1. Basic terms of the loan.

**1.1 Basic terms.** The commitment sets out the basic terms of the loan listed below, and they are part of this agreement.

- Total loan.
- Term of the loan.
- Mortgage Product.
- Interest rate for a fixed rate term.
- For a variable rate term, the then current interest rates.
- Interest adjustment date.
- Payment frequency.
- Amount of each instalment.
- First instalment date (date of first regular payment).
- Last instalment date (date of last regular payment).
- Balance due date.

The changes to the contract under this agreement take effect when we advance the loan to pay out your existing lender.

### 2. Special terms.

**2.1 Non-Resident Tax Clause.** If a withholding or other tax is payable under the law

of any jurisdiction for any payment you make to us, you must pay both the tax, and any tax on the tax. If we ask, you must give us a copy of the receipt. You must send us all assessments, bills and other notices about the taxes as soon as you receive them. If you must withhold the tax from a payment to us, or we bear the tax in another way, you must pay us on demand what's needed to ensure that we actually receive the full amount under the mortgage or contract free of the tax. We can choose to collect withholding or other taxes from you or, if we choose not to collect them, we can later choose to collect them. We'll use them to pay those taxes.

### 3. Definitions.

This part explains the meaning of some words in this agreement.

**3.1 Advance.** Where the contract says we make an advance to you, it includes our making an advance to anyone you direct.

**3.2 Amortization period.**

3.2.1 The amortization period is the time it would take to pay the loan in full, with interest at a given interest rate, by instalments of a given frequency and amount. There are four basic factors for the loan: the amount, interest

rate, instalment and amortization period. With any three of them, we can work out the fourth. The contract uses the following amortization periods:

**3.2.1.1 Remaining contractual amortization period for the term.** At any time, this is the amortization period that was agreed to for the current term of the loan, less the period since that term began.

**3.2.1.2 Remaining contractual amortization period for the contract.** At any time, this is the amortization period that was agreed to for the contract, less the period since the interest adjustment date.

**3.2.1.3 Remaining actual amortization period.** At any time, we work out the remaining actual amortization period by using what is owed at that time, the interest rate at that time, and the instalment at that time.

**3.3 Balance due date.** This is the day on which you must repay the balance of the loan and the interest on the loan in full, unless the loan is renewed for another term. The balance due date is sometimes called the "maturity date."

**3.4 Blended interest rate.** This is an interest rate that we work out when we make a new loan under section 7.11.1.2 or 7.12.1. We use two interest rates:

- The first rate is the interest rate before we make the new loan. We apply this rate to what is owed just before we make the new loan.
- The second rate is our posted interest rate, when you and we enter into the agreement for us to make the new loan, for a fixed rate closed term that is closest in length to the time remaining in the existing term of the loan. We apply this rate only to the additional amount that we're to lend under the new loan.

We then pro-rate these rates, and the result is the blended interest rate.

**3.5 BMO Eco Smart Mortgage™.** BMO Eco Smart Mortgage is a fixed rate closed mortgage product to which the BMO Eco Smart Mortgage discount has been applied. To qualify for a BMO Eco Smart Mortgage: (1) your property must have been certified, by a third party that we choose, to meet the criteria for a BMO Eco Smart Mortgage that are set out on BMO's website in the BMO Eco Smart Mortgage checklist; and (2) we must have provided confirmation to you that your property has been certified.

**3.6 BMO Eco Smart Mortgage discount.** BMO Eco Smart Mortgage discount is a discount from the posted rate for your term that is in effect at the beginning of your term. If you have a BMO Eco Smart Mortgage, this discount is shown in Section 3 of "Our Commitment to Lend and Disclosure Statement".

### **3.7 BMO Smart Fixed Closed Mortgage.**

This is an option for a fixed closed mortgage product that we offer with limited features as described in section 7.

**3.8 Closed term.** See section 3.20, **Open or closed term.**

**3.9 Compound interest.** This is interest on unpaid interest.

**3.10 Contract.** This is the mortgage or deed of hypothec that secures the loan, as changed by this agreement. If the terms of the mortgage or deed of hypothec have been or are changed, it means the mortgage or deed of hypothec as changed.

**3.11 Default Insured contract.** This is a contract that's insured against the risk of the loan not being paid. The law requires a contract to be insured where the loan is higher than 80% of the estimated value of the property at the time of the contract. Even if the law doesn't require the contract to be insured, we may require it.

**3.12 Fixed rate term.** This is a mortgage product where, at all times during the term of the loan, the interest rate can't change.

**3.13 Instalment.** This is your regular payment for the loan and interest. It doesn't include a property tax or insurance payment.

**3.14 Interest adjustment date.** The term of the loan under this agreement begins on a day called the interest adjustment date. The interest adjustment date has that name because we begin the term of the loan on a certain day of the month, but we often make the loan or an advance before that day. For example, if we make the loan to you on April 16 and May 1 is the interest adjustment date, you must pay interest from April 16 to April 30 (15 days), and the term of the loan begins on May 1. If your loan has multiple advances, the interest adjustment date will be the first day of the month after the final advance.

**3.15 Interest rate for the loan.** For a fixed rate term, this is the interest rate calculated half-yearly, not in advance as shown in the commitment. For a variable rate term, the commitment shows what kind of variable rate term you have, and the interest rate for the loan is the variable interest rate for that type of mortgage product described in part 5.

**3.16 Leasehold interest.** When a person doesn't own the property but is a tenant under a lease, that person has a leasehold interest. The leasehold interest doesn't include other rights of the tenant, for example, an option to renew or purchase.

**3.17 Loan.** This is the principal amount that we advance and that the contract secures. It includes the amount that we pay to the holder of the mortgage or hypothec that has been or will be transferred and any additional amount that we advance under this agreement. It also includes any advance we make under a re-borrowing.

**3.18 Loan-to-value ratio.** This is the amount of the loan or of what is owed at a time, as a percentage of the estimated value of the property. If you have a default insured contract, the maximum loan-to-value ratio reflects requirements of the default insurer.

**3.19 Mortgage Product.** Any of the kinds of loans we offer with a fixed or variable interest rate, and an open term or a closed term, and which are secured by a mortgage on real estate.

**3.20 Open or closed term.** If the contract gives you, at all times during the term of the loan, the right to prepay all of what is owed without a prepayment charge, the mortgage product is open. Otherwise, the mortgage product is closed. A Convertible term is closed. We sometimes use the words "limited prepayment" for "closed."

**3.21 Payout statement.** This is a statement we issue that shows the amount that we project will be required to prepay all of what is owed on a given date.

**3.22 Posted interest rate.** This is the yearly interest rate that we fix from time to time for loans for residential properties in Canada secured by mortgages or guaranteed by hypothecs for each mortgage product we offer and designated as our "posted rate" for each mortgage product.

**3.23 Prepayment.** This is a payment that you make above the scheduled payment amount under the contract. If you transfer your loan to another financial institution before the end of the term of the loan, you are prepaying your entire loan with us.

**3.24 Prepayment charge.** This is a charge that you may have to pay if you're prepaying all or part of what is owed.

**3.25 Prime rate.** This is the yearly interest rate that we fix from time to time as our prime interest rate payable on Canadian dollar loans made in Canada and designated as our "prime rate."

**3.26 Property.** This is the property described in the contract.

**3.27 Property claim.** This is a right of anyone other than you in the property, and can include:

- A mortgage, hypothec or other security.
- A lease, a right of way or other easement or servitude, or a restrictive covenant.
- A lien or hypothec created by law (for example, for property taxes, utilities or condominium common expenses, or for a judgment).
- An exception, reservation, condition, limitation or provision.
- Any other encumbrance.
- A trust.
- A claim based on possession or use.
- A permission to occupy or use the property that can't be revoked.
- A claim under a marriage or family law.

**3.28 Property tax.** This is every kind of present or future federal, provincial, municipal or other tax, assessment or rate on or in respect of the property or any part of it. It includes a charge imposed by a municipality for an improvement, and a fee for information about property taxes.

**3.29 Property Tax or Creditor Insurance payment.** This is a regular payment to us for property taxes, or a regular payment to the insurer for creditor insurance premiums (if you obtain that insurance). Such payments are in addition to the instalment.

**3.30 Section or part.** Where this agreement refers to a section or part, it means a section or part of this agreement, unless it shows otherwise.

**3.31 Term of the loan.** This is the period for which you are to have the loan. The term of the loan is usually shorter than the amortization period. For example, a loan may begin with a 25-year amortization period and a 5-year term. The term of the loan under this agreement begins on the interest adjustment date, and ends on the balance due date.

**3.32 Variable rate term.** This is a mortgage product where the interest rate can change automatically based on changes in our prime rate.

**3.33 What is owed.** This is the total of the amounts owed to us as described in section 4.1.

**3.34 Work.** This is constructing anything that becomes part of the property, demolishing a part of the property, or altering, adding to, repairing or renovating the property.

## 4. What is owed and secured.

**4.1 General.** Under the contract, the following amounts are owed to us:

- Every amount that must be paid to us under the contract, including:
  - the loan,
  - interest,
  - compound interest and
  - costs.
- The amounts described in section 4.3.
- Amounts that, as a result of the contract, the law requires to be paid to us.
- Any amount needed to compensate us for a breach of your obligations under the contract.
- Where the property is in Québec, any overdraft and interest referred to in section 12.2.2.3.

Our security secures the amounts listed above and the other obligations to us under the contract. Except where the property is in Québec, the amounts secured are subject to the limit shown in section 4.3.3.

**4.2 The loan.** You must repay the loan, and pay interest on it at the interest rate for the loan, in accordance with this section 4.2.

### 4.2.1 *Interest to interest adjustment date.*

You must pay the interest accrued from the day

we make the advance to the day before the interest adjustment date. You must pay this interest on the interest adjustment date, or we can choose to collect this interest:

- By charging it to your mortgage funding account at any time during the month following the month in which we make the advance.
- By charging it monthly to your mortgage funding account (if we advance the loan more than a month before the interest adjustment date).
- By using part of the loan.
- By asking you to pay it when you pay the first instalment.

**4.2.2 Instalment.** You must pay the amount of each instalment on every instalment date, beginning on the first instalment date and ending on the last instalment date, all as shown in the commitment. We'll apply each instalment as follows:

- First, to pay or reduce any compound interest on the loan up to the instalment date.
- Second, to pay other interest on the loan up to that date.
- Third, to reduce the loan.

If the contract goes into default, we don't have to apply an instalment as shown above. If we don't advance the full amount approved for the loan, you must still pay the full amount of each instalment, unless we agree otherwise.

**4.2.3 Balance.** You must repay the balance of the loan and the interest on the loan in full on the balance due date, unless the loan is renewed for another term.

**4.3 Other amounts that the contract secures.** This section 4.3 describes additional amounts that the contract secures. In this section 4.3, **you** means a person then shown by our records to be an owner of the property. Where you have a leasehold interest in the property, this is the holder of that interest. Where the property is in Québec, the person so shown can include an heir, liquidator, legatee or legal representative, or a person to whom the property is transferred. The terms in sections 14.7.1 and 14.7.4 apply to an agreement under this section 4.3.

**4.3.1 A future change.** In the future, if we agree with you to change any of the terms for what is owed, the contract secures what is owed as changed. This is so, for example, if we amend, renew or replace the loan or extend the time for payment.

**4.3.2 Additional amounts.** Whenever we lend an amount to you and you agree, in the agreement under which we lend such amount to you, that the contract also secures that amount, then the contract will secure such amount and the interest on it. You'll be deemed to agree that the contract secures an amount if it is a re-borrowing under section 7.3.

**4.3.3 Limit on amount secured.** This section 4.3.3 doesn't apply where the property is in Québec. There's a limit on how much the contract secures. The limit is the principal amount shown in the commitment. The limit applies only to the following parts of what is owed at any time:

- The loan that is owing under section 4.1.
- The amount that is owing of what we lent under section 4.3.2.

There's no limit on how much the contract secures for other parts of what is owed, such as interest, costs and any amount needed to compensate us for a breach of your obligations under the contract.

**4.4 Prepayment.** You can prepay all or part of what is owed only where this agreement specifically gives you a right to prepay. After you prepay part of what is owed, you must continue to pay the instalments.

**4.5 Interest generally.** All interest rates for what is owed (including compound interest) apply both before and after demand, the balance due date, default or judgment.

**4.6 Compound interest.** If interest isn't paid when it's due, compound interest must be paid on this unpaid interest. Compound interest must be paid at the same rate as the unpaid interest, is calculated in the same way, and must be paid on the same days. If compound interest isn't paid when it's due, compound interest must be paid on that interest. Compound interest must be paid even if interest isn't in arrears, for example, where you have a variable rate term and the instalment doesn't cover all the interest.

**4.7 Other terms about payments.**

**4.7.1** All amounts are expressed in Canadian dollars and are payable in Canadian dollars.

**4.7.2** You must keep a deposit account with us or a financial institution that we approve, and you must authorize us to debit that account with the instalment. If we ask, you must authorize us to debit the account with property tax or insurance payments. You must ensure that there are sufficient funds in the account for every instalment or property tax or insurance payment when it's due. If we ask, you must make any other reasonable arrangement for paying the instalment or making the property tax or insurance payment.

**4.7.3** Instalments, property tax or insurance payments and other payments must be paid without any set-off. (Having to pay without set-off means that you don't have a right to reduce your debt by any amount we owe you.)

**4.8 Costs.**

**4.8.1 Costs for the security.** You must pay us our costs for arranging the loan, whether we make an advance or not. These include, for example, costs for:

- Charges we pay to your existing lender for the transfer.

- Preparing or registering the transfer and this agreement.
- Inspecting the property, valuing it and surveying it.
- Searching title to the property or obtaining title insurance.
- Paying the insurance premium for an insured contract, any tax on the premium and any application fee.

4.8.2 **Other costs.** You must pay us our costs for:

- Doing or paying anything that the contract says we can do or pay. Examples are arranging insurance; inspecting the property; paying property taxes; paying a property claim such as a prior mortgage or hypothec; repairing, managing and operating the property; doing work; getting an environmental assessment; and complying with an obligation that you've failed to comply with.
- Giving an approval or consent under the contract and checking that conditions are met.
- Protecting ourselves from claims relating to our security, for example, from liens of those who do work.
- Collecting what is owed, if the contract goes into default, and exercising our powers under the contract.
- Doing anything relating to the contract that the contract doesn't require us to do but that you ask us to do, for example, entering into another agreement.

You must also pay us our costs under other terms of the contract.

4.8.3 **Other cost terms.** Wherever the contract requires you to pay a cost, the following terms will apply:

- The cost includes an expense, such as an insurance premium, a property tax or the amount of a prior mortgage or hypothec.
- The cost includes lawyers' or notaries' fees and disbursements, charged on the basis that applies between a lawyer or notary and his or her own client, even though we may not have taken court proceedings.
- The cost includes costs for other professionals or agents, for example, an appraiser, surveyor or engineer.
- The cost may be the usual administration fee that we charge at the time.
- You must pay the cost to us as soon after it has been incurred as we ask for it. You must pay interest on the cost (including any compound interest) from when it's incurred at the interest rate for the loan.

- Our security secures the cost and the interest on it. We can choose to use part of the loan to pay the cost and interest.
- We have the rights under this section 4.8 only as far as permitted by a law that applies despite what you and we have agreed to.

## 5. Variable rate terms.

**5.1 General.** The interest rate during a variable rate term is based on our prime rate. The interest rate is calculated monthly not in advance. The interest rate varies (except as shown in section, because our prime rate varies and changes automatically when our prime rate changes. Our prime rate can change at any time. We don't have to send you a notice showing this change.

### 5.2 Interest rates.

**5.2.1 Variable rate open and Variable rate closed term.** The interest rate for a variable rate open and a variable rate closed term is equal to our prime rate plus the premium or minus the discount, if any, shown on the commitment letter.

### 5.3 Payments.

**5.3.1 Instalment.** Although the interest rate for a variable rate term varies, the instalment doesn't change (except under section 5.3.2). Thus, when the interest rate goes down, more of the instalment goes to repay the loan and the remaining actual amortization period decreases. When the interest rate goes up, less of the instalment goes to repay the loan and the remaining actual amortization period increases.

**5.3.2 Effect if interest is more than the instalment.** For any variable rate product, when the interest rate goes up, the instalment may not be enough to pay all of the interest and the remaining actual amortization period increases. When this occurs what is owed increases and you must pay compound interest. If this happens and if we ask, you may be required to do one or more of the following so the loan will be repaid over the remaining contractual amortization period:

- Immediately pay us the excess.
- Pay us a higher instalment, beginning on the next instalment date, and going on until the balance due date. We fix the amount of the higher instalment to cover any expected rate increase, or to stop what is owed from increasing.
- Convert the loan to a fixed rate term if the contract gives you an option to do so.

If you choose to pay us a higher instalment so that the loan will be repaid over the remaining contractual amortization, you can't lower it under sections 7.14.2 or 7.17.2.

## 6. Renewal.

**6.1 Renewal offer.** Renewal of the loan for another term is at our discretion. We may request additional information before extending a renewal offer. If we decide to renew the loan and if you're not in default, shortly before the balance due date we'll send you our offer to renew the loan. The offer will contain each mortgage product available to you, the interest rate applicable to each mortgage product and any new or amended terms that would also apply to the contract. If by the balance due date you've neither paid all of what is owed at that time nor agreed with us to renew, you'll be deemed to have accepted our offer for a new mortgage product beginning on the day after the balance due date as follows:

6.1.1 If you have a fixed rate term for six months, one year or two years, the new mortgage product is the same mortgage product again. If you have a closed term, the new mortgage product is closed. If you have an open term, the new mortgage product is open.

6.1.2 If you don't have a mortgage product described in section 6.1.1, the new mortgage product is a fixed rate open term of six months.

## 7. Features.

### 7.1 What features apply.

7.1.1 The heading for each section of this part 7 shows what mortgage product a feature applies to. Except where a feature applies to any mortgage product, the feature applies only while you have the mortgage product shown in the heading.

7.1.2 This part 7 does the following:

- shows the features that apply to all mortgage products; then
- shows the features that apply to each specific mortgage product; and then
- shows how a change under the features is made, and explains our prepayment charge.

7.1.3 If the contract is in default, you can't use any of the features in this part 7.

### 7.2 Any type of mortgage product: *Paying the instalment monthly or more often, or accelerated instalments.*

7.2.1 **Your option.** You can ask to pay the instalments in any of four ways:

- every week on Friday,
- every two weeks on Friday,
- twice a month on the 1st and 15th, or
- monthly on the 1st.

You can ask to change the way you pay the instalments at any time. To work out the new instalment, we start with the monthly instalment when the term of the loan began. However, if you chose to pay instalments more often than monthly, we start with what would have been the monthly instalment when the term of the

loan began. And, if you and we have agreed to increase the instalment, we start with the monthly instalment as increased. For instalments more often than monthly, we then multiply that monthly instalment by 12 and divide the result by 52 (for every week), 26 (for every two weeks) or 24 (for twice a month).

7.2.2 **Accelerated instalments.** You can prepay by paying what we call "accelerated instalments." To work out the accelerated instalment, we use the same monthly instalment that we'd start with under section 7.2.1. An accelerated instalment paid every week is that monthly instalment divided by 4. An accelerated instalment paid every two weeks is that monthly instalment divided by 2. An accelerated instalment paid twice a month is that monthly instalment times 13 and divided by 24.

7.2.3 **How we make the change.** When we change the way you pay the instalments under section 7.2.1 or 7.2.2, the terms of section 7.20 apply.

7.2.4 **Instalments after default.** If the contract has gone into default, you must pay any arrears. In addition, if you pay the instalment more often than monthly, if we choose, you must pay the instalment made back into a monthly instalment. We can fix the date on which you must start paying this new monthly instalment. If we've chosen to have you pay the instalments monthly under this section 7.2.4, you can't change the way you pay the instalments under section 7.2.1 or 7.2.2. Nothing in this section 7.2.4, and nothing we do under this section 7.2.4, impairs any other right of ours under the contract. For example, all of what is owed must still, if we choose, be paid immediately.

7.2.5 **Property Tax or Creditor Insurance payments.** If you pay property tax or insurance payments, when the way you pay the instalments is changed, we can decide how often you must pay these property tax or insurance payments.

### 7.3 Any type of mortgage product except a BMO Smart Fixed Closed Mortgage: *Re-borrowing.*

7.3.1 **How much you can re-borrow.** Subject to section 7.3.3, if you've previously prepaid, you may be able to re-borrow on the terms in section 7.3.4.

7.3.1.1 To work out what you can re-borrow:

- First we determine your start date and your initial loan balance, and section 7.3.2 gives examples of how we do this.
- Then we work out what would have been owed if, since your start date, you had only paid instalments without prepaying.

- If what is owed at the time is less than what would have been owed at the time, the difference is what you may re-borrow.

7.3.1.2 What is owed after you re-borrow must not cause the loan-to-value ratio after you re-borrow to go over the maximum loan-to-value ratio we set when you ask to re-borrow. We base the loan-to-value ratio on what we estimate is the value of the property when you ask to re-borrow (and we may request a new appraisal or make an inspection but we have no obligation to do either).

7.3.1.3 Some transactions reduce what you can re-borrow. For example, if you've skipped an instalment under section 7.4, that will lower what you can re-borrow.

7.3.2 **Your start date and your initial loan balance.** The following are examples of how we determine your start date and your initial loan balance:

- If you entered into this agreement with us, your start date is the interest adjustment date shown in the commitment, and your initial loan balance is the principal amount shown in the commitment.
- If you assumed the contract after this agreement by taking a transfer of the property subject to the contract, your start date is the date of transfer, and your initial loan balance is the loan balance on your start date.

7.3.3 **When you can't re-borrow.** We may not allow a re-borrowing in some cases. For example, we don't allow it where:

- Your employer is subsidizing the loan.
- The loan is under a self-directed registered retirement savings plan.
- The property was transferred to you in the same month in which you want to re-borrow.
- We're letting you skip an instalment.
- You've obtained a payout statement and it hasn't expired or been cancelled.
- You're asking to change the type of mortgage product.
- There's another property claim on the property that arose after we established the contract with you.
- You're re-borrowing to avoid having the contract go into default.
- We haven't advanced the full amount approved for the loan.
- The term of the loan has ended.
- The loan has been reduced to zero.
- The contract is in default, or has gone into default during the last 90 days.
- You have a multi-unit residential mortgage with more than 4 units.
- You have a default insured mortgage, unless the re-borrowing is permitted by the default insurer.

- If we've asked you to complete a financial review, we will not allow you to re-borrow until the financial review is completed and we are satisfied with the results of this review.

7.3.4 **Terms for re-borrowing.** When you re-borrow:

- You can't re-borrow less than \$2,500 at a time.
- The mortgage product you have stays the same.
- The balance due date doesn't change.
- If you have a fixed or variable rate term, your interest rate continues to be calculated in the same way.
- The instalment is based on what is owed just before the re-borrowing takes effect plus the amount you re-borrow, the remaining contractual amortization period for the term and your interest rate when the re-borrowing takes.
- You don't have to pay us a prepayment charge.
- You have to pay us any fee that applies in connection with the amount re-borrowed described in the commitment letter, refinancing documents or renewal documents related to the loan.
- The terms of section 7.20 apply to this change.

7.4 **Any type of mortgage product except a BMO Smart Fixed Closed Mortgage: Family Care® and Take a Break®.**

7.4.1 **What the Family Care and Take a Break options are.** These options may allow you to skip instalments. If you've re-borrowed under section 7.3, that may lower how many instalments you can skip.

7.4.2 **How many instalments you can skip.**

7.4.2.1 The Family Care option allows you to skip the following instalments in any calendar year:

- If you pay the instalment monthly, the most is 4 instalments.
- If you pay twice a month or every two weeks, the most is 8 instalments.
- If you pay every week, the most is 16 instalments.

7.4.2.2 The Take a Break option allows you to skip the following instalments in any calendar year:

- If you pay the instalment monthly, the most is 1 instalment.
- If you pay twice a month or every two weeks, the most is 2 instalments.
- If you pay every week, the most is 4 instalments.

### 7.4.3 Terms for skipping instalments.

7.4.3.1 If the contract isn't a default insured contract:

- The instalments you may skip must not cause what is owed after you skip instalments to go over your initial loan balance as determined under section 7.3.2.
- What is owed after you skip instalments must not cause the loan-to-value ratio to go over the maximum loan-to-value ratio we set when you ask to skip an instalment. We base the loan-to-value ratio on what we estimate is the value of the property when you ask to skip an instalment (and we don't have to get a new appraisal or make an inspection).

7.4.3.2 If the contract is a default insured contract, the instalments you can skip can't be more than what you can re-borrow under section 7.3.1. This means that if you have not made accelerated instalments or prepayments, you may not be eligible to use the Family Care and Take a Break options

7.4.3.3 If you don't skip an instalment in one year, you can't save it for another year.

7.4.3.4 We may not allow you to skip an instalment in some cases. For example, we don't allow either option if your employer is subsidizing the loan.

7.4.3.5 The property must be either a one-family home that you occupy (including a one-family condominium) or a two-family home of which you occupy one unit.

7.4.3.6 A right to skip an instalment ends when there is a transfer of the property. You don't have a right to skip an instalment after you've obtained a payout statement, until it expires or is cancelled.

7.4.3.7 For the Family Care option, we must be satisfied as to all of the following:

- You or your partner needs to care for a new baby, a newly adopted child or a sick relative.
- Whichever of you or your partner will provide the care is employed (not self-employed) and the employer has given leave to provide the care.
- You'll be able to pay the instalments when you can no longer skip instalments.

7.4.3.8 You must not be collecting mortgage disability insurance benefits. Your right to skip an instalment ends when you become entitled to collect those benefits.

7.4.3.9 When you skip an instalment, we don't waive any interest. Interest (including compound interest) continues to accrue during the period covered by the instalment, and increases what is owed.

7.4.3.10 Skipped instalments don't have to follow each other.

7.4.3.11 You can't skip a property tax or insurance payment.

7.4.3.12 The terms of section 7.20 apply to this change.

7.4.4 **Your rights to cancel or pay a skipped instalment.** At any time, you can cancel an agreement allowing you to skip an instalment. At any time after you've skipped an instalment, you can pay all or part of that instalment. This is in addition to your option to prepay 20% under section 7.10.1, or 7.18.1. If you pay all or part of a skipped instalment, you don't have to pay us a prepayment charge and you don't have to tell us in advance that you want to pay.

### 7.5 Any type of mortgage product: **Transfer.**

7.5.1 **Our right to require the loan to be repaid in full immediately on a transfer.** If we choose, you must pay all of what is owed immediately (including amounts that haven't become due) whenever there's a transfer of the property or your interest in the property. Where more than one person owns the property or holds the interest, there's a transfer of the property or interest when there's a transfer by any person.

7.5.2 **Our approval.** We won't choose to have all of what is owed paid immediately if, before the transfer, we agree in writing to allow the person who receives the transfer to assume the contract. We won't withhold this agreement unreasonably. The person must meet our usual credit requirements at the time and, if we ask, agree with us to comply with the contract.

7.5.3 **Agreement not to take legal action against you after you transfer.** When you sell the property, you can ask us to agree that, if the person who assumed the contract under section 7.5.2 defaults after you've transferred the property to that person, we won't take legal action to collect what is owed from you (meaning the person who transferred) or a person who was a guarantor before the transfer. We don't have to agree unless, acting reasonably, we're satisfied with every person to whom you transfer. Our approval of an assumption under section 7.5.2 doesn't mean that we're satisfied with that person. The agreement has no effect unless it's in writing. The agreement doesn't impair our security on the property, our rights against the person who assumed the contract under section 7.5.2, or any of our other rights under the contract (other than to take legal action to collect what is owed from you). You don't have to pay us an administration fee for the agreement.

7.5.4 **Portability.** If you consent to our dealing with a person who wants to assume the contract under section 7.5.2, you give up your option in section 7.11.



## 7.6 Fixed rate open term: *Increasing the instalment.*

7.6.1 **Your option to increase.** At any time during the term of the loan, you can prepay by asking us to increase the instalment by any amount. You don't have to pay us a prepayment charge.

7.6.2 **Your option, after an increase, to lower the instalment.** After an increase under your option to increase the instalment, at any time during the term of the loan, you can ask us to lower the instalment. We don't have to lower the instalment if that would make the remaining actual amortization period after the change longer than the remaining contractual amortization period for the contract when you and we enter into the agreement to make the change.

7.6.3 **How we make the change.** When we increase or lower the instalment under this section 7.6, the terms of section 7.20 apply.

## 7.7 Fixed rate open term: *Prepaying.*

At any time during the term of the loan, you can prepay all or part of what is owed. You can't prepay less than \$100 at a time. You don't have to pay us a prepayment charge. You don't have to tell us in advance that you want to prepay.

## 7.8 Fixed rate open term: *Conversion.*

**Your option.** At any time during the term of the loan, you can ask us to convert the loan to any new mortgage product that you choose as follows:

- The new term of the loan begins when the change takes effect.
- If you choose a fixed rate term, the interest rate is our posted interest rate for the new mortgage product when you and we enter into the agreement to make the change.
- If you choose a variable rate term, the interest rate is our variable interest rate for the new mortgage product.
- The instalment is based on what is owed when the change takes effect, the new interest rate and the amortization period described as follows:
  - The new interest rate is the interest rate described above when you and we enter into the agreement to make the change.
  - The amortization period is the remaining actual amortization period just before the change takes effect. However, if that period is more than the remaining contractual amortization period for the term when the change takes effect, it's the latter.

You don't have to pay us a prepayment charge. The terms of section 7.20 apply to this change.

## 7.9 Fixed rate closed term: *Increasing the instalment.*

7.9.1 **Your option to increase the instalment.** Once in each calendar year, you can prepay by asking us to increase the instalment by up to 20%, or 10% for a BMO

Smart Fixed Closed Mortgage, of the instalment just before the increase. If you don't use this option in one year (or you don't use all of it), you can't save it (or the rest of it) for another year. You don't have to pay us a prepayment charge.

7.9.2 **Your option, after an increase, to lower the instalment.** After an increase under your option to increase the instalment, at any time during the term of the loan, you can ask us to lower the instalment. We don't have to lower the instalment if that would make the remaining actual amortization period after the change longer than the remaining contractual amortization period for the contract when you and we enter into the agreement to make the change.

7.9.3 **How we make the change.** When we increase or lower the instalment under this section 7.9, the terms of section 7.20 apply.

## 7.10 Fixed rate closed term: *Prepaying.*

7.10.1 **Your option to prepay.** You can prepay part of what is owed as follows:

- The total of what you prepay under this section 7.10.1 in any calendar year cannot be more than:
  - 10% of the principal amount shown in the commitment if you have a BMO Smart Fixed Closed Mortgage; or
  - 20% of the principal amount shown in the commitment, if you any other mortgage product.
- You can't prepay less than \$100 at a time.
- You can prepay in this way at any time during the year.
- If you don't use this option in one year (or you don't use all of it), you can't save it (or the rest of it) for another year.
- You don't have to pay us a prepayment charge.
- You don't have to tell us in advance that you want to prepay.
- You can't prepay under this section 7.10.1 if you've obtained a payout statement and it hasn't expired or been cancelled.

7.10.2 **Your option to prepay with a prepayment charge.** Except for a BMO Smart Fixed Closed Mortgage, at any time during the term of the loan, in addition to your option to prepay under section 7.10.1, you can prepay all or part of what is owed as follows:

7.10.2.1 You must at the same time also pay us a prepayment charge of the higher of:

- three months' interest on the amount that you're prepaying, or
- the interest rate differential charge, as described in section 7.21.1.

Despite section 7.10.2.1:

- If the term of the loan is longer than five years and you prepay all or part of what is owed after the fifth anniversary of the

date of this agreement, the prepayment charge is three months' interest on the amount that you're prepaying.

- If you prepay all of what is owed within the last three months of the term, the prepayment charge is the interest on the amount that you're prepaying until the end of the term of the loan.
- You don't have to tell us in advance that you want to prepay.

**7.10.3 Prepaying a BMO Smart Fixed Closed Mortgage.** For a BMO Smart Fixed Closed Mortgage, you cannot prepay unless:

- you sell the property to an unrelated purchaser for fair market value; and
- at the same time, you also pay us a prepayment charge as described in section 7.10.2.1 or 7.10.2.2 as applicable.

However, if the term of your loan is longer than five years, you can prepay all or part of what is owed at any time after the fifth anniversary of the date of this agreement without selling your property if you pay us the prepayment charge as described in section 7.10.2.2.

**7.11 Fixed rate closed term: *Portability, carrying the terms of the loan to a new property.***

**7.11.1 Your option.** If you sell the property and buy another property in Canada, you can ask us to make a new loan to you at that time secured by the property you buy.

7.11.1.1 If the amount of the new loan is the same as what is owed under the old loan when we make the new loan, the new loan is as follows:

- It's a fixed rate closed term.
- It has the same balance due date as the old loan.
- The interest rate is the same as for the old loan.

7.11.1.2 If the amount of the new loan is more than what is owed under the old loan when we make the new loan, the new loan is as follows:

- It's a fixed rate closed term.
- It has the same balance due date as the old loan.
- The interest rate is the blended interest rate (see section 3.4).

You don't have to pay us a prepayment charge. We don't have to make the new loan unless our usual credit requirements are met.

**7.11.2 Repaying the old loan.** When we make a new loan under this section 7.11, you must repay all of what is owed at that time on the old loan (including amounts that haven't become due). If you want to repay all or part of what is owed on the old loan before we make the new loan, you can only do so under an option to prepay in the contract.

**7.12 Fixed rate closed term: *Portability, carrying the terms of the loan to a higher loan on the property.***

**7.12.1 Your option.** At any time during the term of the loan, you can ask us to make a new loan to you secured by the property, where the amount of the new loan is more than what is owed under the old loan when we make the new loan. The new loan is as follows:

- It's a fixed rate closed term.
- It has the same balance due date as the old loan.
- The interest rate is the blended interest rate (see section 3.4).

You don't have to pay us a prepayment charge. We don't have to make the new loan unless our usual credit requirements are met.

**7.12.2 Repaying the old loan.** When we make a new loan under this section 7.12, you must repay all of what is owed at that time on the old loan (including amounts that haven't become due).

**7.13 Fixed rate Convertible term: *Conversion.***

**Your option.** At any time during the term of the loan, you can ask us to convert the loan as follows:

- The new mortgage product is a fixed rate closed term of one year or more, beginning when the change takes effect.
- The interest rate is our posted interest rate for the new mortgage product when you and we enter into the agreement to make the change.
- The instalment is based on what is owed when the change takes effect, the new interest rate and the amortization period described as follows:
  - The amortization period is the remaining actual amortization period just before the change takes effect. However, if that period is more than the remaining contractual amortization period for the term when the change takes effect, it's the latter.

You don't have to pay us a prepayment charge. The terms of section 7.20 apply to this change.

**7.14 Variable rate open term: *Increasing the instalment.***

**7.14.1 Your option to increase.** At any time during the term of the loan, you can prepay by asking us to increase the instalment by any amount. You don't have to pay us a prepayment charge.

**7.14.2 Your option, after an increase, to lower the instalment.** After an increase under your option to increase the instalment, at any time during the term of the loan, you can ask us to lower the instalment. We don't have to lower the instalment if that would make the remaining actual amortization period after the change

longer than the remaining contractual amortization period for the contract when you and we enter into the agreement to make the change.

**7.14.3 How we make the change.** When we increase or lower the instalment under this section 7.14, the terms of section 7.20 apply.

### **7.15 Variable rate open term: *Prepaying.***

**Your option.** At any time during the term of the loan, you can prepay all or part of what is owed. You can't prepay less than \$100 at a time. You don't have to pay us a prepayment charge. You don't have to tell us in advance that you want to prepay.

### **7.16 Variable rate open term: *Conversion.***

**Your option.** At any time during the term of the loan, you can ask us to convert the loan to any new mortgage product that you choose as follows:

- The new term of the loan begins when the change takes effect.
- If you choose a fixed rate term, the interest rate is our posted interest rate for the new mortgage product when you and we enter into the agreement to make the change.
- If you choose a variable rate term, the interest rate is our variable interest rate for the new mortgage product.
- The instalment is based on what is owed when the change takes effect, the new interest rate and the amortization period described as follows:
  - The new interest rate is the interest rate described above when you and we enter into the agreement to make the change.
  - The amortization period is the remaining actual amortization period just before the change takes effect. However, if that period is more than the remaining contractual amortization period for the term when the change takes effect, it's the latter.

### **7.17 Variable rate closed term: *Increasing the instalment.***

**7.17.1 Your option to increase by up to 20%.** Once in each calendar year, you can prepay by asking us to increase the instalment by up to 20% of the instalment just before the increase. If you don't use this option in one year (or you don't use all of it), you can't save it (or the rest of it) for another year. You don't have to pay us a prepayment charge.

**7.17.2 Your option, after an increase, to lower the instalment.** After an increase under your option to increase the instalment, at any time during the term of the loan, you can ask us to lower the instalment. We don't have to lower the instalment if that would make the remaining actual amortization period after the change longer than the remaining contractual amortization period for the mortgage when you

and we enter into the agreement to make the change.

**7.17.3 How we make the change.** When we increase or lower the instalment under this section 7.17, the terms of section 7.20 apply.

### **7.18 Variable rate closed term: *Prepaying***

**7.18.1 Your option to prepay up to 20% a year.** You can prepay part of what is owed as follows:

- The total of what you prepay under this section 7.18.1 in any calendar year cannot be more than 20% of the original amount of the loan.
- You can't prepay less than \$100 at a time.
- You can prepay in this way at any time during the year.
- If you don't use this option in one year (or you don't use all of it), you can't save it (or the rest of it) for another year.
- You don't have to pay us a prepayment charge.
- You don't have to tell us in advance that you want to prepay.
- You can't prepay under this section 7.18.1 if you've obtained a payout statement and it hasn't expired or been cancelled.

**7.18.2 Your option to prepay, with a prepayment charge.** At any time during the term of the loan, in addition to your option to prepay 20% under section 7.18.1, you can prepay all or part of what is owed, but you must at the same time also pay us a prepayment charge of three months' interest on the amount that you're prepaying, at the interest rate when you prepay. If you prepay all of what is owed within the last three months of the term, the prepayment charge is the interest on the amount that you're prepaying until the end of the term of the loan. You don't have to tell us in advance that you want to prepay.

### **7.19 Variable rate closed term: *Conversion.***

**7.19.1 Your option.** At any time, you can ask us to convert the loan to a fixed rate closed term as follows:

- The new term of the loan begins when the change takes effect.
- The new term of the loan ends no sooner than the end of the old term.
- The interest rate is our posted interest rate for the new mortgage product when you and we enter into the agreement to make the change.
- The instalment is based on what is owed when the change takes effect, the new interest rate and the amortization period described as follows:
  - The amortization period is the remaining actual amortization period just before the change takes effect. However, if that period is more than the

remaining contractual amortization period for the term when the change takes effect, it's the latter.

You don't have to pay us a prepayment charge. The terms of section 7.20 apply to this change.

## 7.20 Changes generally.

**7.20.1 When a change takes effect.** A change to the contract doesn't take effect until you and we enter into an agreement to make the change and the change takes effect under that agreement.

**7.20.2 Credit requirements.** We'll only make the change if, when the change is to take effect, our usual credit requirements are met. These include requirements for security and documents.

**7.20.3 Requirements of others.** Sometimes the loan may involve another person, for example, the insurer of an insured contract. We don't have to agree to the change if, when the change is to take effect, that person's requirements aren't met. If we agree, the change is subject to that person's requirements (including charges).

**7.20.4 Conversion.** We don't have to convert the loan to a mortgage product that we're not offering when the change is to take effect.

**7.20.5 Interest and loan.** If we convert the loan to another mortgage product and what is owed at the beginning of the new term of the loan includes any interest, the interest will be treated as part of the loan for the new term.

**7.20.6 Effective date.** We'll decide on what date the change is to take effect.

**7.20.7 How often you pay a new instalment.** Except for a change under section 7.2.1 or 7.2.2, a new instalment after a change will be paid as often as just before a change.

**7.20.8 Payment of instalments after you prepay.** After you prepay part of what is owed under section 7.7, 7.10, 7.15 or 7.18, the amount of the instalment doesn't change.

**7.20.9 General terms.** Sections 14.7.1 and 14.7.4 apply to an agreement under this section 7.20.

## 7.21 Interest rate differential charge.

### 7.21.1 How we calculate the interest rate differential charge.

The interest rate differential charge is the present value of:

- the instalments that you would have paid on your loan from the date you prepay to the end of the term of the loan, and
- the principal balance that you would have owed at the end of the term of the loan,

minus the present value of:

- the instalments that would be due on a new loan if the principal balance, the term and the amortization period of the new loan were the same as the remaining principal balance, the remaining term and the remaining actual amortization period of your loan but the interest rate on the new loan was the comparison rate, and
- the principal balance that would be due on the new loan at the end of the term of this loan.

To calculate the present value of the amounts described above we use a formula that credits you for the fact that we will receive the interest rate differential charge immediately instead of receiving payments over the term of the loan.

**7.21.2 Comparison rate.** We work out the comparison rate used in the calculation of the interest rate differential charge in section 7.21.1 as follows:

- A. We start with our posted interest rate, when you prepay, for a fixed rate closed term that is closest in length to the time remaining in the existing term of the loan.
- B. If you received a discount when you began the existing term of your loan, we subtract this discount from A. The result is the comparison rate.
- C. To check if you received a discount when you began the existing term of your loan, we compare your interest rate to the posted interest rate for your existing mortgage product when you entered into your existing term. If the posted rate was more than your interest rate, the difference is your discount. If you have a blended interest rate (as described in section 3.4), the discount is a blend of any discount you received on the additional loan amount. If an amount was paid to us to buy down your interest rate, the rate buy down is not included in the discount.

## 8. Multi-unit and non-residential property.

### 8.1 When this part applies.

8.1.1 This part 8 applies to a contract where, at the time shown in section 8.1.2, any one or more of the following conditions was met:

- The property contained, or was to contain, five or more dwelling units.
- A dwelling unit hadn't been built on the property. However, this paragraph doesn't apply where we intended advances under the contract to be used for building a dwelling unit or dwelling units on the property and the person who had the right to receive the advances was to live in it or at least one of them.

- A material part of the property was being used, or was intended for use, for a commercial or industrial purpose.

If we made a record showing whether any of the above applied, our record will be taken as true.

8.1.2 The time in section 8.1.1 is as follows:

- If the original contract was entered into with us, it's when that contract was entered into.
- If the original contract wasn't entered into with us, it's when we made the advance to become the holder of the contract.

**8.2 Renewal.** Part 6 doesn't apply to the contract if this part 8 applies to the contract.

**8.3 Features generally.** Except as shown in sections 8.4 and 8.6, part 7 doesn't apply to the contract if this part 8 applies to the contract.

**8.4 Transfer.** If this part 8 applies to the contract, sections 7.5.1 and 7.5.2 apply.

**8.5 Prepaying under a fixed rate closed term.** If this part 8 applies to the contract, you have a fixed rate closed term, the term of the loan is longer than five years, and the mortgage or hypothec wasn't given by a corporation, you can prepay all or part of what is owed at any time after the fifth anniversary of the date of this agreement, as follows:

- You must at the same time also pay us a prepayment charge of three months' interest on the amount that you're prepaying.
- You don't have to tell us in advance that you want to prepay.

If this section 8.5 applies to the contract and, within three months before the end of the term of the loan, you prepay all of what is owed, the prepayment charge is the interest on the amount that you're prepaying from when you prepay to the end of the term of the loan.

**8.6 Prepaying under a fixed rate open or variable rate term.** If this part 8 applies to the contract and you have a fixed rate open term, section 7.7 applies. If this part 8 applies to the contract and you have a variable rate open term, section 7.15 applies.

**8.7 Default.** If the contract is in default, you can't prepay under section 8.5 or 8.6.

## 9. Our security.

### 9.1 Security.

9.1.1 You give us security over the property and all of your rights in or relating to the property in the same way as the existing contract gives us security. This security adds to our security and doesn't take away or lessen the security under the existing contract. The security secures:

- The amounts described in section 4.1, even if the limit shown in section 4.3.3 is more

than the original principal amount of the contract.

- A prepayment charge for prepayment required by your existing lender.
- A fee of your existing lender for transferring the contract to us.

9.1.2 Where the property is in Québec, you agree that the contract secures the amounts described in section 9.1.1. Those amounts are obligations for which every person who granted the hypothec obligated himself, herself or itself again under the contract, in accordance with Article 2797 of the Civil Code of Québec.

**9.2 Transfer of the contract.** You must ensure that we have a valid mortgage or hypothec on the property described in the commitment. You do this by having your existing contract transferred to us.

- We don't have to accept the transfer unless the contract is in a form we approve.
- We don't have to accept the transfer unless the holder has a good title, free from property claims, to it, the debt secured by it, and all other rights relating to it.
- We don't have to accept the transfer unless the holder of the contract validly transfers the following to us: the contract, the debt secured by it, and all other rights relating to the contract. You direct the holder to transfer them to us. The transfer must be registered.

### 9.3 Title obligations.

9.3.1 **Your ownership.** You promise that you own the property with a good title to it and (except where the property is in Québec) in fee simple free from any property claim (except for the contract) or defect and that the title cannot be defeated. You promise that all property taxes that have become due have been paid.

9.3.2 **Other promises.** You promise to protect your title to the property. You promise that you haven't done, omitted or permitted anything by which the property is or may be transferred, affected or made subject to a property claim (except for the contract). For example, you promise that, if you've had work done on the property, the property is now free from a construction, renovation, builder's or mechanic's lien, legal hypothec or claim. Except where the property is in Québec, you promise that, if we're entitled under the contract to possess or enjoy the property, we'll have quiet possession or enjoyment of it free from property claims (except for the contract).

9.3.3 **Description.** You promise that the property conforms to every description or plan given to us, and that it includes all buildings and improvements in every description.

9.3.4 **Leasehold interest.** Where you have a leasehold interest in the property, sections 9.3.1 and 9.3.2 don't apply. Instead, you promise that:

- You hold the leasehold interest with a good leasehold title free from any property claim (except for the contract) or defect and the title cannot be defeated.
- You are absolutely entitled to every other right of the tenant under the lease free from any property claim (except for the contract) or defect.
- All property taxes that have become due have been paid.
- The lease conforms to every description given to us and hasn't been changed.
- The person that created the lease had a good title to the property, free from property claims and defects.
- The lease is good, valid and in force.
- Your obligations under the lease have been complied with.
- You'll protect your title to the leasehold interest and every other right of the tenant under the lease.
- You haven't done, omitted or permitted anything by which they are or may be transferred, affected or made subject to a property claim (except for the contract).
- Except where the property is in Québec, while we're entitled under the contract to possess or enjoy the property, we'll have quiet possession or enjoyment of it free from property claims (except for the contract).

#### 9.3.5 *The contract.*

- You promise that the contract conforms to every description given to us, is valid and contains a valid first mortgage or first ranking hypothec on the property described in this agreement.
- You agree that neither this agreement nor the transfer impairs your obligation to pay any part of what is owed under the contract, or any security under the contract.
- You agree that we have the powers that the contract gives to the lender under it.
- You direct us to pay to the holder of the existing contract the amount needed to pay off the amount owing under the existing contract. You agree that we may rely on a statement by the holder of that amount. You agree that the amount in the statement is owing under the contract and secured by it.
- You agree that you have no set-off or other claim that might affect the contract.

**9.4 Nature of security.** Our security continues until we discharge it under section 9.6 or 9.7. Our security isn't affected by a payment reducing the balance to zero. To confirm this where the property is in Québec, and using the words of the law, you are deemed to obligate yourself or yourselves again under a provision of the contract for every advance under this agreement. By asking for each advance, you obligate yourself or yourselves again under a provision of the contract.

**9.5 Our priority.** Our security has priority for what is owed over every interest in the property created in favour of another person after the contract was entered into. It has priority even if we advance the amount after the other person's interest in the property was created. It has priority even if an agreement with us for what is owed is entered into after the contract was entered into, and even if that agreement isn't registered. Every person acquiring an interest in the property must be taken to accept the terms of this section.

**9.6 Discharge (outside Québec).** This section 9.6 applies where the property isn't in Québec. When all of what is owed has been paid on the dates it was due and in accordance with the terms that apply to it, and if you duly comply with all of your obligations under the contract, we'll discharge our security and transfer back to you anything included in our security. Or, if we must transfer the benefit of all or part of what is owed and our security to someone else, we'll do so. The law may also give you another right to have us discharge our security called your equity of redemption. You must give us a reasonable time after payment to verify our records and complete the discharge or transfer. We can register the discharge or transfer; otherwise you're responsible for doing so. You must pay our costs for doing what this section 9.6 requires. These include the usual administration fee that we charge at the time and any registration fee we pay.

#### 9.7 Discharge (Québec).

9.7.1 This section 9.7 applies where the property is in Québec. The following terms apply to the discharge of our security (called a "deed of acquittance"):

- Before we execute a document to discharge our security, all of what is owed must have been paid; all of your obligations under the contract must have been complied with; and we must have had a reasonable time after payment to verify our records.
- You must pay our costs for executing a document to discharge our security. We can prepare the document or have it prepared by anyone we choose to advise us on it. Where you provide a document, we can approve the document or have it approved by anyone we choose to advise us on it. You must pay our usual administration fee or service charge for preparing or approving a document. You must also pay our costs for having a document prepared or approved by anyone we choose to advise us on it.
- We can register a document; otherwise you're responsible for doing so. If we register, you must first pay us the registration fee and the costs of sending the application to the registry office.
- We can execute a document before a notary we approve, and you must pay our costs for the notary.

- Before we execute a document, you must have complied with your obligations in this section 9.7.1.
- The above terms are subject to any law that applies despite what you and we have agreed to.

9.7.2 If we must transfer the benefit of all or part of what is owed and our security to someone else, all of the terms listed in section 9.7.1 apply to a document for the transfer.

9.7.3 When all of what is owed has been paid and you've duly complied with all of your obligations under the contract, you must arrange for the documents to discharge or transfer our security to be prepared and registered within sixty days.

## 10. Further terms for a condominium.

10.1 **Definitions.** In this part 10:

- **Condominium law** is a condominium, strata, divided co-ownership or similar law, as amended or replaced.
- A **unit** is property that is a unit, lot or private portion governed by condominium law.
- A **complex** is the property that a unit is a part of.
- The **condominium rules** are the body of rules by which the complex or part of it is governed including, for example, a declaration, bylaw, resolution, regulation, rule or agreement, as amended or replaced.
- The **managing body** is a corporation, legal person, partnership, syndicate, trust, association or other body holding or managing the complex. It isn't the directors or a manager of the body.
- The **common expenses** are the share of the expenses, levies, reserves or contingency fund, assessments or other payments that condominium law or the condominium rules require you to pay to the managing body.

10.2 **How this part applies.** This part 10 applies where the property is a unit. All of the other terms of the contract apply, except where this part 10 says they don't apply.

10.3 **Our added security.** You transfer to us the benefit of all your rights relating to the complex (except a right that is a leasehold interest in the property), whether they exist when or after the contract is entered into. Where the property is in Québec, you confirm, to the extent applicable, that all such rights are covered by our security. You irrevocably appoint us your attorney to exercise the rights. In particular, we can exercise your right to vote or consent, or to require or call a meeting. You must, if we ask, follow our instructions about how to exercise such a right.

10.4 **Common expenses.** You must pay all the common expenses when they're due. You must give us a receipt or other proof that you've paid

them when we ask for it. When we pay a common expense, we can rely on a statement that appears to be issued by the managing body showing the amount of the common expense and the date it's due.

10.5 **Voting.** If we arrange for you to vote, at any time, we can cancel the arrangement. You must give us notice if you're asked to exercise the following rights and you must not exercise them without our consent:

- To vote on anything that requires more than a simple majority of those present at a meeting.
- To give a consent (as distinct from voting).
- To have any right of yours purchased, dealt with or changed.
- To receive assets or a payment from the managing body.

Without our written consent, you must not vote for any action that might reduce the value of your unit, the complex, or our security. You must comply with this section 10.5 even if we wouldn't have been able to exercise your right to vote. None of our rights under the contract is impaired because we voted for or consented to anything, or gave you instructions to do so.

10.6 **Insurance.** We have the rights as to insurance under section 12.1 and where they refer to the **property**, they mean the unit and parts of the complex other than units. However, you don't have to insure parts of the complex where the managing body's insurance covers them and, where it doesn't, your insurance against loss or damage to parts of the complex other than units need only be for your share of the cost of replacing them.

10.7 **Maintaining and replacing the property.** Where you're responsible under the condominium rules for repairing or replacing your unit or a part of the complex, you must keep it in good repair and working order, and (subject to section 12.1.5) restore or replace it where it can't be repaired.

10.8 **Condominium obligations.** You must comply with all of your obligations under condominium law and the condominium rules. You must give us any proof of compliance that we request. You must not do anything that materially increases your obligations under condominium law and the condominium rules. If we ask, you must exercise your rights to have the managing body, or holders of other units, comply with their obligations under condominium law and the condominium rules.

10.9 **Notices and information.** You must give the managing body and others notice of our security in a way that protects our right to vote, our rights in insurance and our other rights. If we ask, you must forward to us a copy of notices, assessments, bylaws, financial statements and the condominium rules that you receive from the managing body. If we ask, you must give us any information or document that you're entitled to

obtain from the managing body. You authorize us to obtain any information or document from the managing body.

**10.10 Our costs.** You must pay us our costs of enforcing a right to have the managing body or another owner comply with condominium law or the condominium rules, or of exercising our rights to vote or consent.

**10.11 Immediate payment.** If we choose, all of what is owed (including amounts that haven't become due) must be paid immediately if any of the following things happens:

- The managing body fails to comply with a material obligation under condominium law or the condominium rules.
- A court makes a judgment or order against the managing body.
- The managing body, in our opinion, materially fails to manage the complex in a prudent manner.
- A court appoints an inspector, administrator or similar officer under condominium law.
- The managing body becomes bankrupt.
- Substantial work is started on the complex, or there is a substantial increase in the common expenses or a substantial decrease in the services that the managing body provides, or a step is taken for any of those things.
- There is a material change to any of the condominium rules, or a step is taken for that.
- There is substantial damage to the complex.
- The complex or part of it ceases to be governed by condominium law or the condominium rules, or is sold or expropriated, or the managing body is amalgamated, or the condominium is terminated, or a step is taken for any of those things.

## 11. Further terms for leasehold property.

**11.1 Where this part applies.** This part 11 applies where you have a leasehold interest in the property. All of the other terms of the contract apply, except where this part 11 says they don't apply. **Lease** means your lease as it may have been or be amended or replaced.

### 11.2 Responsibilities for the lease.

11.2.1 You must pay every amount payable by the tenant under the lease when it's due, and comply with every other obligation of the tenant under the lease. You agree that nothing will be done or omitted under the lease that might impair the leasehold interest or our security. You must do what this section 11.2.1 requires, even where the landlord hasn't enforced a right. For example, you must pay rent on time, even if the landlord has given you extra time to pay.

11.2.2 Without our written consent, you must not do any of the following:

- Terminate or agree to terminate the lease.
- Agree to change a term of the lease.
- Do anything that gives the leasehold interest to the landlord, or frees the property from the lease. For example, you must not surrender the lease to your landlord.

**11.3 Renewal or extension.** Where you have a right to renew or extend the lease, you must exercise the right and do everything needed to obtain the new lease or extension, and you must satisfy us before the right expires that you will do so. If you receive a new lease of the property or part of it (under a right or not), you must give us security over the new lease. If you extend the lease and we have a sublease, our sublease is extended for the rest of the extended term of the lease, except the last day of that term.

**11.4 Landlord's interest.** Where you become the holder of the landlord's interest under the lease as well as your leasehold interest, your leasehold interest continues to exist.

**11.5 Power of attorney to us.** You irrevocably appoint us as your attorney to do for you everything that this part 11 requires you to do.

## 12. Other responsibilities.

### 12.1 Insurance.

#### 12.1.1 Main insurance.

- **All risks.** You must keep every building and every other improvement on the property, including property in which you have a leasehold interest, insured against loss or damage by the risks usually covered by an "all risks" policy with standard extended coverage, including fire, lightning and tempest. Your policy must at least be for the cost of replacing all of the building or improvement with a similar one. It must also be for enough to prevent the insurer from reducing the proceeds under a "co-insurance" clause. The policy must contain a standard mortgage or hypothec clause saying that the proceeds of any loss are payable to us.
- **Usual insurance.** You must also carry the insurance for all of the property that a careful owner would usually carry when insuring a similar property and using it in a similar way and place.

#### 12.1.2 Other kinds of insurance.

- **Boiler, machinery, builders' risks etc.** Where a risk caused by anything (for example, a boiler, machinery, a sprinkler system or plate glass) or an activity (for example, building work) on the property isn't covered by the "all risks" policy, you must insure the property against losses usually covered by a policy on that risk.
- **Rents etc.** Where the property is leased to others, your insurance must cover your loss of rents and payments by tenants towards costs for at least a year.



- **Public liability.** You must also insure against general public liability.
- **Other.** You must also carry insurance against any risk relating to the property that we ask you to carry.

12.1.3 **Other requirements.** All insurance under the contract must be with a reputable insurer. If we ask, the insurer, amount and terms must be accepted by us. The policy must provide for us to receive at least 15 days' notice before the policy is not renewed, is cancelled or is materially changed.

12.1.4 **Your other obligations.** You must promptly pay the premiums for all insurance required under the contract. You must comply with all of your obligations under each policy. You must comply with all of the terms relating to your right to collect under each policy. You must ensure that we receive a certified copy of each policy and every amendment to it. When a policy nears expiry, you must ensure that we receive proof that it has been renewed or replaced at least 15 days before its expiry. When a policy is to be cancelled, you must ensure that we receive proof that it has been replaced at least 5 days before it's cancelled. If we ask, you must provide us with a receipt for the premium and other proof that you're complying with your obligations under each policy.

12.1.5 **Claims.** If any of the property that is insured is lost or damaged, you must immediately notify us, make a claim in accordance with the insurance policy, and ensure that the proceeds are paid to us. Despite the loss or damage, you remain liable under your obligations to us. For example, you must pay in accordance with the terms that apply to what is owed. Without our written consent, you must not restore or replace property that has been lost or damaged.

12.1.6 **Proceeds.** We can choose to have proceeds of insurance against loss of or damage to property (including insurance for loss of income) applied in any of the following ways:

- To reduce or pay what is owed (even, if we choose, amounts that may not then have become due).
- To restore or replace the property.
- To be paid to you (or anyone else who has a right to them).

We can choose to have proceeds applied partly in one of the above ways and partly in another. This section doesn't impair our right to hold proceeds and use them to pay instalments as they become due.

12.1.7 **Our right to insure.** If you don't comply with any of your obligations under this section 12.1, we can arrange any insurance that we choose in order to protect our security.

## 12.2 Property taxes.

12.2.1 **Generally.** Except where we pay property taxes under section 12.2.2, you must

pay all property taxes when they're due. We can choose not to collect regular payments of property taxes under section 12.2.2. When we choose not to collect regular payments, we can later choose to collect them.

### 12.2.2 You're paying property taxes by regular payments.

12.2.2.1 **Taxes due before the interest adjustment date.** When we make the loan, you must pay unpaid property taxes that are then due, or that will become due on or before the interest adjustment date. We can use part of the loan to pay those taxes.

12.2.2.2 **General rules for regular payments of taxes.** After the interest adjustment date, if we ask, you must pay us regular payments of property taxes. We'll estimate the amount we want to hold to pay the property taxes (but it won't be more than we'll need to pay the taxing authority over its next financial year). You must pay the estimate by equal regular payments on the dates on which the instalments are payable. We can choose to fix the regular payments once a year even if we pay the taxes more often. If the actual property taxes are more than our estimate, you must also pay the difference to us. We can choose to increase the regular payment of property taxes to cover it or add the difference to your loan.

12.2.2.3 **Property tax account.** We deposit the regular payments of property taxes in a separate property tax account. We'll pay property taxes even if we have to overdraw this account. While this account is overdrawn, you must pay us interest on the overdraft at the interest rate for the loan. At any time, you may pay off the overdraft. Our security secures the overdraft and the interest. We don't hold regular payments of property taxes in trust.

12.2.2.4 **Our paying the property taxes.** We'll use the regular payments of property taxes to pay the property taxes. If we collect regular payments for one kind of property tax (and not another), we'll use the regular payments only to pay that kind of property tax. If the contract goes into default, we can use any amount in the property tax account to reduce whatever part of what is owed we choose. We can do so even where we were to have paid property taxes, but haven't then actually paid them.

12.2.2.5 **Property tax information.** You must send us all assessments, bills and other notices about the property taxes as soon as you receive them. If we ask, you must have the body to which the taxes are payable send them to us.

## 12.3 Property claims.

12.3.1 Unless we give our written consent, you must not create or attempt to create a

property claim that is prior to our security or has the same priority as our security, and you must keep the property free from such a property claim.

12.3.2 You must pay every amount payable by you, when it's due, under a property claim that is prior to our security or has the same priority as our security. You must comply with every other obligation of yours under that claim. Where section 12.3.1 requires it, you must also get our written consent to the claim. You agree that you will not do, omit to do or permit anything that might lower the value of the property or impair our security, and you will not agree to do, omit to do or permit those things.

**12.4 Repairing and replacing the property.** You must put and keep every part of the property in good repair and working order, and (subject to section 12.1.5) you must restore or replace it where it can't be repaired.

**12.5 Alterations or additions.** Without our written consent, you must not do any of the following things (even if they were proposed or in progress when the contract was entered into):

- Make or permit a structural alteration to any part of the property.
- Make or permit a material alteration or addition to any part of the property.
- Remove any machinery or equipment that serves a building on the property.
- Demolish a material part of a building on the property.
- Do or permit anyone else to do anything that lowers the value of the property.

**12.6 Work.** Where you do work, you must comply with the following obligations:

- You must choose, design and do the work with materials and in a way that ensures a high quality result, and with proper skill and care.
- You must conform to any plan or other description that we may have approved.
- You must do the work with reasonable speed until it's completed, and you must not abandon it. We can treat you as having abandoned it if no work is done for ten days.

Where section 12.5 requires it, you must also get our written consent to the work.

**12.7 Laws about property claims for work.** You must comply with laws that give property claims to those who do work (for example, a construction, renovation, builder's or mechanic's lien, legal hypothec or claim). If a property claim for work is registered against the property, if we ask, you must immediately have it removed, by court order if necessary.

**12.8 Use of the property.** Without our written consent, you must not make a major change in the use of the property, abandon the property or leave the property unoccupied or unused.

**12.9 Legal requirements, including environmental.** You must ensure that the property, the use of the property, and any business or activity that uses the property, comply with every law. Here law includes a governmental action, such as an order, notice or approval. You must do any work and make any change in use needed for this purpose. For example, the property must comply with the building code; your use of it must comply with environmental laws; and if you rent it, the rent must be legal. You must not put or allow anyone else to put anything in or on any part of the property that causes or is likely to cause harm to the life or health of a human being.

**12.10 Our rights to inspect, test and obtain information.** We can, at any time and for any purpose, before or after the contract goes into default, do the following:

- Enter the property and inspect it.
- Make an appraisal or valuation of it.
- Take samples from it and conduct environmental testing of it.
- Monitor any activity on it.

We can authorize anyone to do these things for us. Where a person has done any of the things for you, you consent to the person doing them for us or giving us any information. You must give us, and anyone we authorize, any information about the property that you have or can reasonably obtain and that we request. If we ask, you must let us see and copy any records for the property. You must pay us our costs for exercising our powers under this section 12.10. For an insured contract, the insurer also has the rights given to us under this section 12.10.

## 13. Default.

**13.1 When the contract goes into default.** If any of the events listed below occurs, the contract goes into default. It does so even if the cause of the event is outside anyone's control. If there is more than one of you, it does so even if the event applies only to one of you. The events are:

13.1.1 A payment of what is owed or any part of what is owed (including an instalment) isn't made when it's due. This applies whether the payment is due on a fixed date or on demand.

13.1.2 Any obligation to us under the contract isn't complied with.

13.1.3 Any promise made to us for the contract is broken or any information given to us for the contract isn't materially true or correct, whether or not you knew it was untrue or incorrect.

13.1.4 A government acquires all or part of the property, or anyone else does so under a statutory power.

**13.2 Immediate payment.** If the contract goes into default, all of what is owed (including amounts that haven't become due) must, if we choose, be paid immediately.

**13.3 Action to collect.** If the contract goes into default, we can take legal action to collect what is owed. If we get a judgment against you, we can have other assets of yours used to pay what is owed.

**13.4 Powers (outside Québec).** This section 13.4 applies where the property isn't in Québec. If the contract goes into default, we have the following powers:

13.4.1 **Sale.** We can sell or dispose of anything covered by our security without going to court. We can also ask a court to order a sale of the thing. If the property is sold and what we receive falls short of what is owed, we can still collect the shortfall from you.

13.4.2 **Division.** If any person other than you also has an interest in anything covered by our security, we can agree with that person to acquire their interest or to divide the thing between the persons who have interests in it. We can pay or receive an amount for this purpose.

13.4.3 **Becoming the holder of your interest.**

13.4.3.1 If the contract goes into default, we can become the owner of anything covered by our security, free from any right of yours. We have the power even though the contract gives us the power to sell the thing.

13.4.3.2 We become the holder of your interest by foreclosing, that is, by taking a proceeding to cancel your right to discharge our security by paying off what is owed. We have the right to foreclose in the same way as if you had transferred the property to us subject to section 9.6.

**13.5 Powers (Québec).** This section 13.5 applies where the property is in Québec. If the contract goes into default, we have the following powers given by the *Civil Code of Québec*:

13.5.1 We can take possession of the property to administer it.

13.5.2 We can ourselves sell the property.

13.5.3 We can have the property sold by judicial authority.

13.5.4 We can take the property in payment of our claim.

**13.6 Further powers.** If the contract goes into default, we can exercise the following powers:

13.6.1 **Possession.** We can take possession of anything covered by our security.

13.6.2 **Collecting income.** We can collect rents or income from anything covered by our security.

13.6.3 **Leases.** We can give a lease of the property, or we can terminate a lease, accept a surrender of a lease or agree to amend a lease.

13.6.4 **Exercising your powers.** We can exercise all the powers of an owner of anything covered by our security, and you're bound by

our actions. These powers include the following:

- Managing and operating the property.
- Doing or completing work.
- Taking legal proceedings relating to the property.

13.6.5 **Carrying out obligations.** We can do any of the following:

- We can do what's needed to comply with an obligation under the contract with which you've failed to comply and we can enter the property for this purpose. For example, we can pay unpaid property taxes, pay utility charges, repair the property and complete work. If we enter into an agreement, we can do so in your name or our name.
- If your obligation under the contract is to comply with an obligation to another person, and the other person claims that you haven't complied, we can do what we choose to comply as if this claim is valid and even if you dispute it.
- We can pay (or prepay) an amount under a property claim if it has priority over our security, or has the same priority. When we prepay, we can compensate the holder of the property claim, and settle with the holder the amount to be paid. If we pay the amount under a property claim, we not only have the rights given to us by the contract, but we also have the rights (including security) of the holder of the property claim, and we can obtain an assignment of these rights.

**13.7 Things left on the property.** If the contract goes into default and if there is anything on the property over which we don't have security under the contract, you must pay any costs we incur for handling or storing it. We can remove it from the property, or we can sell it.

**13.8 Our exercising a power.** When we exercise a power of ours under the contract, the following terms apply:

13.8.1 We can exercise the power over all or part of anything covered by our security or over any interest or right in all or part of anything covered by our security. For example, we can sell a fixture separately from the property and give the buyer the right to remove it. If we exercise the power over part of anything covered by our security or over less than all of your interest, the rest continues to be subject to our security for what is owed and unpaid, and we can exercise the power over the rest when we choose.

13.8.2 We can exercise the power to recover part of what is owed. If we do, our security continues for the rest of what is owed, and we can exercise a power for the rest when we choose. For example, we can lease to recover only arrears of what is owed, and later sell to recover the rest.

13.8.3 We can exercise the power in any way and do anything relating to the power. For example we can exercise the power:

- Without your consent or cooperation.
- By breaking locks and bolts.
- Where we haven't taken possession of the property.
- By having others do things for us.
- By acquiring things, for example, materials or equipment to complete work.
- By entering into a sale, lease or other transaction on any terms, for example, by private agreement, by public auction or by public tender, and for cash or on credit. Selling on credit includes, for example, where we transfer the property and take security for the unpaid price. If we sell on credit, we needn't account for the proceeds until we receive them.
- At an auction, by setting a reserve price or buying in, and re-selling.
- By entering into an agreement to enter into the transaction, bringing an agreement to an end, entering into a new agreement or amending an agreement.

We can exercise the power whenever we wish. For example, we don't have to delay selling until market conditions improve.

13.8.4 We can transfer or deal in any other way with every interest or right in anything covered by our security that you had the power to dispose of or deal with. You irrevocably appoint us as your attorney to do anything we decide is needed or desirable to exercise a power at any time under this part 13.

### 13.9 Other terms relating to our powers.

13.9.1 **Legal powers.** Where a power that the contract gives us goes beyond what is permitted by a law that applies despite what you and we have agreed to, we have the power as far as that law permits, or the power is subject to our complying with that law. Subject to such a law, we can exercise any power under the contract without giving any notice or taking any other step.

13.9.2 **Our rights.** Our rights under the contract or this part 13 aren't exhaustive. We have the rights given to us by the contract, any other agreement, or the law. We can exercise those rights at any time, at the same time, in any order and as often as we choose.

13.9.3 **Use of proceeds.** We'll use proceeds we receive from enforcing the contract first to pay or reduce costs under section 4.8. We can then use them to pay any part of the rest of what is owed and secured in whatever way we decide.

13.9.4 **Effect of our obtaining a judgment.** If we obtain a court judgment, it doesn't supersede or impair any right of ours under the contract. We continue to be entitled to interest on what is

owed, calculated and payable under the terms of the contract.

**13.10 Protection of persons who deal with us.** When we sell, give a lease, collect income, exercise a right, or do anything else under the contract, the following terms apply:

13.10.1 A person dealing with us and any person taking title through that person can assume without inquiry that the transaction is legal, that the contract has gone into default (if our power depends on that), and that we're using the power properly. The person isn't affected by any fact to the contrary, even if the person actually knows of that fact. The person can pay an amount to us without being concerned about what we do with it.

13.10.2 In addition, a statutory declaration by an officer or employee of ours or a certificate by us as to any fact is conclusive evidence in favour of every person referred to above.

13.10.3 You must not make any claim against a person who deals with us, or anyone taking title through that person, because the transaction doesn't conform to other terms of the contract. If you do have a claim for anything done by us, it's restricted to a claim for compensation against us, and is subject to any term in the contract limiting our liability.

## 14. Other terms.

**14.1 Effect of this agreement.** Our preparing or accepting this agreement doesn't put us under an obligation to lend; our lending under this agreement doesn't put us under an obligation to lend more; and neither adds to any obligation we may have. This agreement and our security take effect when this agreement is entered into, even if we don't make an advance at that time, and even if we don't comply with an obligation to make an advance.

**14.2 Effect of the law or another transaction, including a commitment.** The contract adds to any other right of ours. Nothing in the contract takes away or reduces any other right of ours under any law or other transaction. Nothing in any other transaction between you and us takes away or reduces our rights under the contract. If there is a conflict between the contract and another transaction, it must be resolved to give us the better rights. Subject to the above, the terms of a commitment or other agreement for what is owed continue in force.

**14.3 Effect of dealings.** A dealing by us or failure by us to deal with anyone or with any right or security doesn't release or impair a right of ours. This is so even though you may not know of or consent to the dealing, whatever are the terms on which we act, and even if we receive nothing in return. For

example, subject to section 7.5.3, if we renew the loan with a new owner after a transfer of the property, that doesn't change a liability of yours under the contract.

#### **14.4 Your liability.**

**14.4.1** You agree to pay what is owed on the days on which, and in the way in which, the contract requires it to be paid. You agree to comply with all the other terms of the contract that apply to you.

**14.4.2** Where more than one of you is liable for an obligation under the contract and the property isn't in Québec, both or all of you are jointly and severally liable (which means you're liable individually and together).

**14.4.3** Where more than one of you is liable for an obligation under the contract and the property is in Québec, you're solidarily liable, and every obligation of yours is indivisible. Because you're solidarily liable, we can compel each of you to perform the whole obligation. Because your obligations are indivisible, one of you can't require us to divide our claim between you.

**14.5 Invalid or unenforceable terms.** If any of the terms of the contract is or becomes invalid or unenforceable, that doesn't make the contract or other terms invalid or unenforceable.

**14.6 We can transfer the contract.** The contract binds and benefits a successor or assignee of ours. We can transfer what is owed and our security. The transfer doesn't impair an obligation to pay what is owed or our security.

#### **14.7 Changes to the contract.**

**14.7.1 Terms for a later agreement.** When you and we agree to make a change to the contract, this section 14.7.1 and section 14.7.4 apply to that agreement. We can choose to have the agreement not take effect until you've complied with this section 14.7.1.

**14.7.1.1 Information.** You must give us the information we need to decide on the change.

**14.7.1.2 Security.** We must be satisfied that our security covers the change. If we ask, the agreement making the change must be registered. If another person has acquired a right in the property and we ask, you must have the right postponed to our security, or have the person agree that our security ranks before the person's right.

**14.7.1.3 Costs.** You must also pay us our costs for the change, including the usual administration fee that we charge at the time.

#### **14.7.2 General.**

**14.7.2.1** This agreement doesn't pay off the loan or make the loan into a new loan, but merely changes the terms of the contract (and there's no novation). The changes become part of the contract. Except as changed by this agreement, the terms of the contract continue and apply to the loan as changed, and all security secures the loan as changed. Where a

term of this agreement conflicts with a term of the existing contract, the term of this agreement governs. If interest that's owing is treated as part of the loan under this agreement, that doesn't impair our priority.

This agreement adds to our rights and doesn't take away or lessen a right that we have and we reserve those rights.

**14.7.2.2** For the purposes of section 10 of the Canada *Interest Act* or a similar law, this agreement changes the date of the contract to the date of this agreement. This means that, if the section or law gives you a right to prepay with a prepayment charge of three months' interest, you don't have that right until five years after that date. Section 10 of the Canada *Interest Act* and similar laws don't apply to a mortgage or hypothec given by a corporation.

**14.7.3 Other changes.** The terms in this agreement about the following replace the equivalent terms in your existing contract:

- Variable rate terms, as shown in part 5.
- Renewal, as shown in part 6.
- Features and options, including financial terms such as those in part 7.

#### **14.7.4 Informal agreement or consent and electronic information, documents or disclosure.**

**14.7.4.1** In this section 14.7.4, an informal agreement or consent is one that isn't on paper and signed, for example, one that's made or given orally; through pressing phone keys; in an electronic way (for example, by e-mail); or by a person acting on the agreement. In this section 14.7.4, "electronic" includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means, or by any other similar means that can create, record, transmit or store.

**14.7.4.2** You agree that we can act on an informal agreement between you, us, a spouse, a guarantor or anyone having rights similar to those of a spouse, or on a consent by you, a guarantor, a spouse or anyone having rights similar to those of a spouse and, if we do, you and we are bound by it. We don't have to enter into an informal agreement or act on an informal consent. If we enter into an informal agreement, we can confirm the identity of a person agreeing and we don't have to act on the agreement until we've done so. You consent to our using, providing or accepting information or a document in an electronic form. We don't have to use, provide or accept information or a document in an electronic form.

**14.7.4.3** We can make a record of an informal agreement or consent (for example, by recording a phone call) and we can use the record to prove the informal agreement or consent. We can make a record of information or a document that we use, provide or accept in an electronic form (for example, by saving it electronically) and we can use the record to prove the information or document.

14.7.4.4 Where we act on an informal agreement or consent, we can send a written confirming agreement or consent to you, and you must have it promptly signed and returned to us. We can terminate an informal agreement, if we think that it wasn't made with a person who should have been a party, wasn't consented to by a person who should have consented or isn't clear.

14.7.4.5 You consent to any future disclosure being provided by electronic means in an electronic form that you can retrieve and retain, or by fax.

**14.8 National Housing Act.** If the contract is an insured contract under the *Canada National Housing Act*, the contract is made pursuant to that Act.

## 15. Guarantee.

**Consent.** This part 15 is addressed to the person (or each person) who agrees to this document as a guarantor, and refers to that person as **you** and to a person who is to pay the guaranteed amounts as the **borrower**. You consent to this agreement. You agree that, when we've paid out the existing lender, we'll have the benefit of the guarantee in or relating to the contract, and that it covers the contract as changed by this agreement. You unconditionally guarantee to us that all of what is owed will be paid. You guarantee that all of the other obligations of the borrower (or every borrower, if there's more than one) under the contract will be complied with. The guarantees are on the terms in the contract or in any other document containing the guarantees relating to the contract. We may have a right to act without a guarantor's consent, and neither this paragraph nor anything we do as to the consent impairs that right.

## 16. Added terms for Jurisdictions.

**16.1 Added term for Alberta: Terms included by law.** This section 16.1 applies where the property is in Alberta. The *Land Titles Act* includes terms in a mortgage unless the mortgage excludes them. For greater certainty, those terms and any similar terms in any future law that applies in Alberta are excluded from the contract.

**16.2 Added term for Nova Scotia: Default.** This section 16.2 applies where the property is in Nova Scotia. If we become the holder of your interest by foreclosing, we can still ask a court for a judgment against you for part of what is owed.

**16.3 Added term for Québec: Notice.** This section 16.3 applies where the property is in Québec.

16.3.1 The contract says how we may give a notice to you or communicate with you in any other way.

16.3.2 If we can't find you at your address shown in our records, or on any part of the

property, we may also give a notice to you or communicate with you by filing the notice or communication, addressed to you, with the special clerk of the superior court for the district in which the property is located. You elect domicile at the office of this special clerk.

16.3.3 We may also give a notice to you or communicate with you at your domicile under the *Civil Code of Québec*.

**16.4 Added terms for Saskatchewan.** This section 16.4 applies where the property is in Saskatchewan.

16.4.1 **Corporate waivers.** Under *The Land Contracts (Actions) Act* we may need to get leave of a court to take certain actions to enforce the contract or recover what is owed. Under *The Limitation of Civil Rights Act*, our rights under the contract and to recover what is owed may be limited. If you are a corporation, you agree that those Acts do not apply to any of the following:

- The contract, including this agreement.
- Any other security for what is owed.
- Any other agreement or instrument entered into by you for the payment obligations, or involving the payment by you of money or your liability to pay money.
- Any agreement that renews or extends the contract, that security, or the other agreement or instrument.
- Any agreement that is collateral to the contract, that security, or the other agreement or instrument.
- Any action under the contract, that security, or the other agreement or instrument.
- The rights, powers or remedies of us or anyone else under the contract, that security, or the other agreement or instrument.

16.4.2 **Terms included by law.** Sections 135 and 136 of *The Land Titles Act, 2000* include terms in a mortgage unless the mortgage excludes them. For greater certainty, those terms and any similar terms in any future law that applies in Saskatchewan are excluded from the contract.

## 17. Spouse (or person having rights similar to those of a spouse).

**17.1 Consent.** You, the spouse of the borrower or person having rights similar to those of a spouse, consent to this agreement.

**17.2 Agreement.** You, the spouse of the borrower or person having rights similar to those of a spouse, agree as follows:

This paragraph applies where the property is in Newfoundland and Labrador, Prince Edward Island or Nova Scotia. You release any and all right, title and interest that you may have with respect to the property. You agree to the terms

for a spouse or person having rights similar to those of a spouse in section 14.7.4.

This paragraph applies where the property is in Newfoundland and Labrador or Prince Edward Island. You agree that we can, without notice to you, deal with the property and what is owed as we see fit.

This paragraph applies where the property is in Newfoundland and Labrador. Where you have an interest in the property or its proceeds, and security over the interest is not given under other terms of the contract, you give us security over the interest in the same way as if you were a person referred to as you in the rest of the contract, or you agree to do so. This applies whether the interest exists when this agreement is entered into, or comes into existence after then.

## **18. Language.**

The parties agree that this agreement and any related documents be drawn up in English. Les parties conviennent que le présent contrat et tous les documents s'y rattachant soient rédigés en anglais.

You confirm that you've received a copy of this agreement. Each other person signing this agreement confirms receiving a copy of this agreement.

Each of the parties accepts this offer.

**Borrower**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Borrower**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Spouse**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Guarantor**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Any other party**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Any other party**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_