



COURT FILE NUMBER 2101-01130

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF BANK OF MONTREAL

DEFENDANTS EAGLES MED GROUP INC., CHRIS MUSAH PROFESSIONAL CORPORATION, CHRISTOPHER MUSAH, ALSO KNOWN AS CHRIS MUSAH, CHARLES FRANKLIN JOHNSON PROFESSIONAL CORPORATION, CHARLES FRANKLIN JOHNSON, YETUNDE KASUMU MEDICAL PROFESSIONAL CORPORATION, AND YETUNDE KASUMU

DOCUMENT **FIFTH AND FINAL REPORT OF THE COURT APPOINTED RECEIVER OF EAGLES MED GROUP INC., AND CHRIS MUSAH PROFESSIONAL CORPORATION**

DATED OCTOBER 23, 2023

PREPARED BY DELOITTE RESTRUCTURING INC.

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Introduction and background

1. Pursuant an Order of the Court of Queen's Bench of Alberta (as it then was) (the "**Receivership Order**") pronounced February 12, 2021 (the "**Date of Receivership**"), Deloitte Restructuring Inc. ("**Deloitte**") was appointed as receiver and manager (the "**Receiver**") of all current and future assets, undertakings, and properties of every nature and kind whatsoever and where ever situated (the "**Property**") of Eaglesmed Group Inc. ("**Eaglesmed**") and Chris Musah Professional Corporation ("**CMPC**", collectively with Eaglesmed, the "**Debtors**"), including all proceeds thereof.
2. Eaglesmed is a private corporation incorporated in the province of Alberta on December 14, 2009. The sole director of Eaglesmed is Dr. Chris Musah ("**Dr. Musah**") and the voting shareholders of Eaglesmed are Dr. Musah (76%), Dr. Yetunde Kasumu (19%), and Charles Franklin Johnson Professional Corporation ("**CFJP**") (5%). As at the Date of Receivership, Dr. Kasumu and CFJPC are no longer involved in the operations of Eaglesmed. Eaglesmed operated as a comprehensive medical facility located at a leased premises municipally described as 215 – 12445 Lake Fraser Drive SE, Calgary, AB. Eaglesmed ceased operations prior to the Date of Receivership.
3. CMPC is a medical professional corporation incorporated in the Province of Alberta on October 26, 2005. The sole director and voting shareholder of CMPC is Dr. Musah. CMPC was a holding company for revenues earned by Dr. Musah and was the legal owner of five (5) investment properties.
4. The Debtors' primary secured lender is the Bank of Montreal ("**BMO**"), which was owed approximately \$2.5 million from the Debtors ("**BMO Indebtedness**") as at the Date of Receivership. BMO holds security over all of the Debtors' present and after acquired personal property (the "**BMO GSAs**") and registered mortgages (the "**BMO Mortgages**" and together with the BMO GSAs, the "**BMO Security**") against four (4) of CMPC's investment properties (the "**Canadian Properties**").
5. On July 16, 2020, BMO sent letters to the Debtors providing notice that they were in default of their obligations pursuant to various loan agreements, as amended, demanding repayment of the loans advanced thereunder, and issuing a notice of intention to enforce security pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"). Subsequently, BMO provided the Debtors various opportunities to rectify the outstanding deficiencies on their loans, which the Debtors were ultimately unable to do.
6. Over the post-demand period, BMO worked with the Debtors to arrange a forbearance agreement; however, this was rejected by the guarantors of the BMO Indebtedness and was never completed. Accordingly, on February 1, 2021, BMO filed and served an application for the appointment of a Receiver over the assets of the Debtors.
7. On April 26, 2021, the First Report of the Receiver (the "**First Report**"), along with the confidential supplement to the First Report, were filed in support of the Orders pronounced on May 4, 2021 which approved, amongst other things, an amendment to the Receivership Order (the "**Amending Order**"), the sale of Eaglesmed's assets, and a sale process (the "**CMPC Sales Process Order**") with respect to the Canadian Properties. A sealing Order with respect to the Confidential Supplement to the First Report was also pronounced on May 4, 2021.

8. On February 7, 2022, the Second Report of the Receiver (the "**Second Report**"), along with the confidential supplement to the Second Report, were filed in support of the Orders pronounced on February 16, 2022, which approved the Receiver's activities (the "**February 2022 Order**") and the sale of one of the Canadian Properties located at #703 10 Shawnee Hill SW, Calgary, Alberta ("**Unit 703**"). A sealing Order with respect to the Second Confidential Supplement was also pronounced on February 16, 2022. The sale of Unit 702 closed on March 1, 2022.
9. On May 3, 2022, the Third Report of the Receiver (the "**Third Report**"), along with the confidential supplement to the Third Report, were filed in support of the Orders pronounced on May 12, 2022, which approved the Receiver's activities (the "**May 2022 Order**") and the sale of one of the Canadian Properties located at #702 10 Shawnee Hill SW, Calgary, Alberta ("**Unit 702**"). A sealing Order with respect to the Third Confidential Supplement was also pronounced on May 12, 2022. The sale of Unit 702 closed on June 17, 2022.
10. On June 20, 2022, the Fourth Report of the Receiver (the "**Fourth Report**"). Along with the confidential supplement to the Fourth Report (the "**Fourth Confidential Supplement**"), were filed in support of the Orders pronounced on June 28, 2022, which approved the Receiver's activities (the "**June 2022 Order**") and the sale of one of the Canadian Properties (the "**Pine Lake Sale and Vesting Order**") located at 16 Cutbank Close, Pine Lake, Alberta ("**Pine Lake Property**") A sealing Order with respect to the Fourth Confidential Supplement was also pronounced on June 28, 2022 (the "**Fourth Sealing Order**"). Copies of the June 2022 Order, Pine Lake Sale and Vesting Order, and the Fourth Sealing Order are attached hereto as **Appendix "A"**, **"B"**, and **"C"**, respectively. The sale of the Pine Lake Property closed on August 2, 2022.
11. The Receivership Order, together with related Court documents, the Notice to Creditors, First Report, Second Report, Third Report, Fourth Report (collectively the "**Previous Reports**") and this fifth report of the Receiver (the "**Fifth Report**") have been posted on the Receiver's website (the "**Receiver's Website**") at www.insolvencies.deloitte.ca/en-ca/Eaglesmed.
12. Unless otherwise provided, all other capitalized terms not defined in this Fifth Report are as defined in the Receivership Order or the First Report.

Purpose

13. The purpose of this Fifth Report is to:
 - a) Provide the Court with an update of the Receiver's activities since the date of the Fourth Report;
 - b) Provide the results of the Receiver's Sales Process (as defined later in this Fifth Report);
 - c) Respectfully recommend that this Honourable Court make orders:
 - i. Approving the activities, professional fees, and disbursements of the Receiver as described in this Fifth Report, including the payment of the estimated fees to be incurred up to the completion of the administration of the estate as set out herein and, without limitation, the steps taken by the Receiver pursuant to the Receivership Order;
 - ii. Approving the fees of the Receiver's legal counsel including the payment of the estimated fees to be incurred up to the completion of the administration of the estate, as set out herein;
 - iii. Approving the Receiver's Statement of Receipts and Disbursements for the period from February 12, 2021, to October 16, 2023 (the "**SRD**") attached hereto as **Appendix "D"**;
 - iv. Approving a final distribution of funds to BMO as the senior secured creditor of CMPC;

- v. Authorizing the Receiver to destroy the Debtors' corporate books and records if not claimed and return courier paid for by the former director within thirty (30) days of the Receiver's discharge;
- vi. Dismissing the Alleged Trust Claim (defined herein) or in the alternative, declaring it need not be determined;
- vii. Approving the discharge of the Receiver and terminating these receivership proceedings upon the filing of a Receiver's Certificate confirming the disbursement of all funds held and the conclusion of all remaining administrative matters;
- viii. For such further or other relief that the Court considers just and warranted in the circumstances.

Terms of reference

14. In preparing this Fifth Report, the Receiver has relied upon unaudited financial information prepared by the Debtors' management ("**Management**"), the Debtors' books and records, and discussions with Management. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the information. The Receiver may refine or alter its observations as further information is obtained or brought to its attention after the date of this Fifth Report.
15. The Receiver assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of the Fifth Report. Any use, which any party makes of the Fifth Report, or any reliance or decision to be made based on the Fifth Report, is the sole responsibility of such party.
16. All dollar amounts in this Fifth Report are in Canadian dollars, unless otherwise indicated.

Receiver's Activities

17. The Receiver has undertaken and performed the following activities since the Fourth Report:
 - a) Closed the sale of the Pine Lake Property pursuant to the Pine Lake Sale and Vesting Order;
 - b) Maintained insurance coverage for the remaining assets of the Debtors prior to sale;
 - c) Continued a marketing and sales process in respect of the Peace River Property (defined below at paragraph 18), as described in more detail later in this Fifth Report;
 - d) Negotiated a purchase and sale agreement and closed the sale of the Peace River Property;
 - e) Continued efforts to obtain information relating to the Benin Property, as described in more detail later in this Fifth Report;
 - f) Responded to queries from Canada Revenue Agency ("**CRA**") regarding the Debtors' Goods and Services Tax ("**GST**") and payroll accounts;
 - g) Addressed post-receivership GST matters;
 - h) Prepared interim statutory reports and filed same with the Office of the Superintendent of Bankruptcy ("**OSB**") in accordance with subsection 246(2) of the BIA;

- i) Corresponded with, obtained advice from and instructed Cassels, Brock & Blackwell LLP ("**Cassels**"), the Receiver's independent legal counsel, on various legal matters related to the receivership including but not limited to the above matters and bringing an application for the Receiver's discharge;
- j) Corresponded with BMO and its counsel regarding status updates and responses to inquiries;
- k) Corresponded with other creditors, employees, and other stakeholders;
- l) Made various attempts (via counsel) to contact and deliver correspondence to Dr. Musah via his counsel and directly upon the withdrawal of his counsel, in relation to the outstanding matters in these receivership proceedings, including attempts to reach a resolution of the Alleged Trust Claim (defined herein at paragraph 26);
- m) Attempted to contact Dr. Musah to obtain instructions as to whether to return or dispose of the books and records of the Debtors' estates;
- n) Prepared, reviewed, and finalized this Fifth Report including preparing a final statement of receipts and disbursements and allocation of same between the Debtors and properties; and
- o) Attended to other matters of both a general and specific nature required over the course of the receivership proceedings not referred to above.

Sale of Peace River Property

- 18. Pursuant to and in accordance with the CMPC Sale Process Order, the Receiver continued to facilitate the CMPC Sale Process, as defined and detailed in the Previous Reports, of the last remaining Canadian Property located at 13801 – 92 Street, Peace River, Alberta (the "**Peace River Property**").
- 19. As outlined in more detail at paragraph 25(c) and 29(c) of the First Report, the Peace River Property is a bare plot of land located in Peace River, Alberta and BMO has a first in time mortgage registered against the Peace River Property in the original principal amount of \$100,000 with no outstanding principal balance at the Date of Receivership.
- 20. The Debtor originally listed the Peace River Property for sale with Royal LePage prior to the receivership on September 1, 2017, for an original list price of \$210,000. The list price was periodically reduced over the course of approximately two (2) years to \$87,000 on August 3, 2019. On January 3, 2021, just prior to the Date of Receivership, Royal LePage was instructed by the Debtor to raise the list price to \$137,000.
- 21. The Receiver entered into a new listing agreement with Royal LePage on June 4, 2021, and adjusted the listing price to \$75,000 to reflect the market conditions and municipality rezoning requirements at the Date of Receivership.
- 22. During the Receiver's list period (approximately 22 months) for the Peace River Property, Royal LePage undertook an extensive sales and marketing process deploying various marketing tools including, but not limited to, an online listing of the Canadian Properties on its's commercial website and MLS Commercial listing website and posting the listing on Royal LePage's in-house marketing database.
- 23. The above noted marketing efforts for Peace River Property generated little to no interest in the property and only one (1) offer was submitted to the Receiver (the "**Offer**") for a purchase price of \$20,000. The Receiver accepted the offer and the sale of the Peace River Property closed effective March 20, 2023.

24. Pursuant to paragraph 3(m)(i) of the Receivership Order, Court approval was not required as a condition of the sale as the sale of the Peace River Property did not exceed \$25,000, or the aggregate consideration of \$100,000.
25. BMO, the primary secured creditor of the Debtors, was supportive of the sale.

Alleged Trust Claim – Canadian Properties

26. As set out in the Previous Reports, CMPC has taken the position that its ownership interest in Unit 702, Unit 703 and the Pine Lake Property (defined in the Previous Reports as the REMAX Properties and hereinafter referred to as the “**Alleged Trust Properties**”) is solely in the capacity of nominee, agent, and bare trustee for the sole benefit of Dr. Musah’s children, Vanessa Osilamah Musah and Joshua Igenegba Musah (the “**Alleged Beneficial Owners**”), pursuant to the Trust Agreement (defined below) (the “**Alleged Trust Claim**”). Further background to the Alleged Trust Claim is detailed in the Previous Reports as follows:
 - a) First Report: paragraphs 58 to 65, as well as the following Appendices:
 - i. Appendix “L” — Declaration of bare trust and nominee agreement between the Alleged Beneficial Owners and CMPC dated September 10, 2015 (the “**Trust Agreement**”);
 - ii. Appendix “M” — Letter from the Receiver to Dr. Musah (both via counsel) dated April 22, 2021;
 - iii. Appendix “N” — Various email correspondence between the Receiver and Dr. Musah dated February 16, 2021 to February 23, 2021; letter from the Receiver to Dr. Musah (both via counsel) dated March 5, 2021; letter from the Receiver to Dr. Musah (both via counsel) dated March 9, 2021; letter from the Receiver to Dr. Musah (both via counsel) dated March 24, 2021; letter from Dr. Musah to the Receiver (both via counsel) dated March 26, 2021 enclosing a copy of the Trust Agreement and CMPC shareholders and board resolution of CMPC dated September 10, 2015; and letter from the Receiver to Dr. Musah (both via counsel) dated April 12, 2021;
 - b) Second Report: paragraphs 32 to 36;
 - c) Third Report: paragraphs 26 to 35; and
 - d) Fourth Report: paragraphs 27 to 36.

For convenience, a copy of the Trust Agreement is also attached hereto as **Appendix “E”**.

27. The Receiver, CMPC, and their respective counsel held many discussions and exchanged correspondence regarding the Alleged Trust Claim; however, as at the date of this Fifth Report the Alleged Trust Claim remains unresolved and despite repeated attempts by the Receiver to contact Dr. Musah to obtain clarification as to whether he is still intending to pursue the Alleged Trust Claim, no response has been received as of the date of this Fifth Report.
28. Pursuant to the February 2022 Order, this Honourable Court ordered that:
 - a) unless, on or before April 15, 2022, the Debtors file and serve an application (the “**Alleged Trust Application**”) with supporting evidence (the “**Application Materials**”) with respect to the Alleged Trust Claim, the Receiver is authorized and empowered to make one or more distribution(s) to BMO that together total no more than \$2,500,000, subject to any reasonable holdbacks as the Receiver deems necessary for priority payables and the costs of administration; and

- b) any hearing of the Alleged Trust Claim shall be heard within 45 days of the filing of the Application Materials, subject to further order of this Honourable Court or any adjournment that is consented to by the Receiver.
29. In accordance with the February 2022 Order, on April 14, 2022, the Debtors' former legal counsel filed Application Materials with respect to the Alleged Trust Claim, which was to be heard on May 12, 2022.
 30. On April 18, 2022, counsel to BMO requested that Dr. Musah, the affiant of the affidavit sworn in support of the Application Materials (the "**Affidavit**"), be made available for a short cross-examination.
 31. On April 20, 2022, former counsel to Dr. Musah advised that Dr. Musah was not available until June 2022 due to ongoing medical issues. In response, counsel to BMO offered to provide accommodation in the form of a virtual proceeding, providing an accessible premises to conduction the examination at or as otherwise requested by Dr. Musah.
 32. On April 24, 2022, former counsel to Dr. Musah provided medical documentation indicating that Dr. Musah was unavailable until July 22, 2022.
 33. As a result of the foregoing, the Receiver, BMO and Dr. Musah ultimately agreed to adjourn the Alleged Trust Application until such time as Dr. Musah could be examined on his Affidavit.
 34. Paragraphs 3 to 6 of the May 2022 Order authorized the Receiver to pay the outstanding costs of administration of the receivership, provided that:
 - a) payment of any professional fees shall be without prejudice to the outcome of the Alleged Trust Claim and any arguments regarding the allocation of amounts secured by the Receiver's Charge or Receiver's Borrowing Charge (both as defined in the Receivership Order); and
 - b) notice is provided to CMPC and Dr. Musah, who shall have the opportunity to object.
 35. Similarly, paragraph 5 of the June 2022 Order, provides that the payment of the professional fees is without prejudice to the outcome of the Alleged Trust Claim and any allocation of amounts is secured by the Receiver's Charge and Receiver's Borrowing Charge.
 36. On June 5, 2022, Dr. Musah advised the Receiver (both via counsel) that, in accordance with a letter from Dr. Musah's physician dated June 2, 2022, Dr. Musah would be on extended medical leave to October 30, 2022.
 37. No further medical notes have been provided by Dr. Musah extending his medical leave. As detailed further below, in December 2022, Dr. Musah and CMPC's most recent counsel withdrew and since this time, despite multiple requests, Dr. Musah has failed to communicate or respond to the Receiver with respect to the Alleged Trust Claim.
 38. On August 10, 2023, the Receiver (via counsel) advised Dr. Musah that the Receiver will not agree to an adjournment of the hearing of the Alleged Trust Claim beyond October 31, 2023, for the reasons set out above and below in this Fifth Report (the "**August 10th Correspondence**"). The Receiver also requested Dr. Musah to confirm by no later than August 24, 2023, whether he will be opposing the Receiver's application scheduled for October 31, 2023.
 39. On September 8, 2023, Cassels sent a follow up letter to its August 10th Correspondence (the "**September 8th Correspondence**"). Multiple attempts were made by the Receiver (via counsel) to deliver the August 10th Correspondence and the September 8th Correspondence, both via email and to multiple addresses via courier, registered mail and regular mail. A copy of the September 8th Correspondence, enclosing a copy of the August 10th Correspondence, as well a summary of the delivery attempts are attached hereto as **Appendices "F"** and **"G"**, respectively.
 40. The Receiver is of the view that the Alleged Trust Claim should either be dismissed or in the alternative, need not be determined for the Court to approve the distribution of the remaining proceeds of the

Debtors' estate and declare all payments and distributions by the Receiver in the course of its administration to be final, for the following reasons:

- a) The Alleged Trust Properties have been sold through these receivership proceedings. The last sale closed on August 2, 2022.
- b) Pursuant to the February 2022 Order, Dr. Musah was required to have the Trust Claim heard within 45 days of filing Application Materials. Although the Receiver was only served unfiled copies of the Application Materials, on April 14, 2022, Dr. Musah's counsel advised Cassels that the Application Materials had been submitted for filing.
- c) The Receiver consented to an adjournment of the hearing of the Trust Claim until the expiration of Dr. Musah's medical leave, which expired on October 31, 2022 (approximately 1 year ago); and no further communication or medical documentation has since been provided, nor has Dr. Musah submitted for cross-examination on his Affidavit or taken any steps to have the Trust Claim heard.
- d) Dr. Musah has had notice that the Receiver will not agree to any further delay in having the Trust Claim heard for more than 2.5 months.
- e) Despite repeated attempts by the Receiver (both directly and via counsel) to contact Dr. Musah at multiple addresses, via email and telephone, he has failed to respond and appears to be evading the Receiver's communications and service.
- f) Paragraphs 8 and 9 of the affidavit of Christopher Musah sworn April 7, 2022, in these receivership proceedings (the "**Musah Affidavit**") state:
 - i. The Trust Properties were purchased in part with mortgage funds from BMO and that separate BMO mortgages are registered against each of the [Alleged] Trust Properties; and
 - ii. The validity of the BMO mortgages registered against the Trust Properties is not disputed. Any equity in the Trust Properties over and above the respected BMO mortgages must be held in trust for Vanessa and Josh [Alleged Beneficial Owners] and that such equity is not captured by BMO's general security over the assets of CMPC.
- g) Pursuant to the standard mortgage terms incorporated in each of the BMO mortgages, CMPC agreed:
 - i. To pay to BMO any amount needed to compensate BMO for a breach of the borrower's [CMPC's] obligations under the BMO Mortgages as well as all costs, which costs include all costs incurred for collecting what is owed to BMO, if the mortgages go into default, and all costs incurred in exercising BMO's powers under the BMO Mortgages. Additionally, whenever the BMO Mortgages require the borrower to pay costs, the costs include lawyers' fees and disbursements on a solicitor and his own client basis and costs for other professionals or agents; and
 - ii. The BMO Mortgages secure all costs and interest thereon.
- h) Any costs of administration incurred in the receivership proceedings, including all of the fees and disbursements of the Receiver and its counsel throughout the receivership proceedings (collectively, the "**Professional Fees**") that are not paid through estate proceeds will ultimately be the responsibility of BMO. As such, the Professional Fees are caught under Section 2 of the Standard BMO Mortgage Terms and would therefore be secured by the BMO Mortgages.
- i) Based on the forgoing, upon payment of the amounts owing under the BMO Mortgages (including the Professional Fees incurred up to the close dates of the sale of each property) there is no equity remaining in the Alleged Trust Properties. The Receiver anticipates BMO will suffer a shortfall on each of the Alleged Trust Properties as shown below:

	Total	Unit 703	Unit 702	Pine Lake
Sales proceeds held in Trust	1,067,718	199,481	274,101	594,136
Carrying costs	(38,655)	(6,547)	(12,246)	(19,862)
Receiver's Fees	(74,908)	(20,977)	(22,533)	(31,397)
Legal fees	(80,662)	(22,589)	(24,264)	(33,809)
Net sales proceeds available for distribution	873,493	149,368	215,058	509,067
Rental income	12,150	12,150	-	-
Estimated Total Distribution to BMO	885,643	161,518	215,058	509,067
Outstanding mortgage balances as at Date of Receivership	(976,968)	(178,028)	(245,731)	(553,209)
Less: Interim distribution to BMO	648,789	124,243	196,388	328,158
Plus: accrued interest and cost for the period ending July 28, 2023	(67,653)	(11,005)	(16,952)	(39,696)
Outstanding mortgage balance as at July 28, 2023	(395,833)	(64,791)	(66,295)	(264,747)
Estimated Final Distribution to BMO	236,854	37,275	18,670	180,909
Estimated shortfall in BMO mortgage payout	(158,978)	(27,516)	(47,625)	(83,837)

- j) Further, pursuant to paragraph 18 of the Receivership Order, the Receiver has been granted a charge on the Property (the "**Receiver's Charge**") as security for the Professional Fees. The Receiver acknowledges the Receivership Order was subsequently amended in the Amending Order to specifically list the Trust Properties as included in the definition of Property without prejudice to any trust arguments that may be advanced under the Alleged Trust Claim, the Receiver remains of the view that the Receiver's Charge is in priority to the Alleged Trust Claim for the following reasons:
- i. The original, unamended Receivership Order specifically states that the Receiver's Charge forms a first charge on the Property in priority to all trust claims. It is the Receiver's position that because the Alleged Trust Properties are legally held by the Debtors, the Trust Properties formed part of the Property subject to the Receivership Order (even before the Amended Order was granted) and the Receiver's Charge takes priority over the Alleged Trust Claims; and
 - ii. The Receivership Order also states that the Receiver's Charge takes priority over "all security interests", which would include the BMO Mortgages.
41. Based on the foregoing factors, the Receiver requests that this Honourable Court dismiss the Alleged Trust Claim, or in the alternative, declare that the Alleged Trust Claim need not to be determined as there will be no residual estate proceeds following payment of the costs of the receivership administration (including Professional Fees) and amounts owing to BMO, all of which would be in priority to the Alleged Trust Claim.

Fees and disbursements of the Receiver and its legal counsel

42. Pursuant to the February 2022 Order, May 2022 Order and June 2022 Order, the fees and disbursements of the Receiver and its legal counsel have been approved for the periods of February 12, 2021 to May 18, 2022, and February 12, 2021 to May 31, 2022, respectively.
43. Pursuant to the May 2022 Order, among other things, this Honourable Court authorized and empowered the Receiver to pay, from the proceeds of the sale of Unit 703, all outstanding costs of administration of the receivership including the fees and disbursements of the Receiver and its legal counsel up to May 2, 2022, and April 30, 2022, respectively.
44. The Receiver notes that approximately \$64,000 (excluding GST) of its professional fees and disbursements have been paid out of net proceeds in the Eaglesmed estate to date pursuant to the CRA Administrative Agreement, as defined in the First, Second, and Third Reports, with the remainder to be paid from Receiver's Borrowings.

45. The Receiver is seeking approval of its' fees and disbursements for the period of May 19, 2022 to the Receiver's discharge and completion of its administration of the Debtors' estates, totalling approximately \$55,070 (excluding GST). This total comprises six (6) interim invoices for Receiver's fees and disbursements from May 19, 2022 to August 11, 2023 totalling approximately \$40,820, unbilled work-in-progress to October 10, 2023 of approximately \$4,250, and estimated costs to complete these receivership proceedings of \$10,000 (excluding GST) on the basis that all relief sought in this Fifth Report is granted by this Honourable Court.
46. The Receiver is also seeking approval of its legal counsel's fees for the period of June 1, 2022 through to the Receiver's discharge and completion of its administration of the Debtors' estates, totalling approximately \$74,098 (excluding GST). This total comprises nine (9) interim invoices for legal fees and disbursements from June 1, 2022 to August 30, 2023 totalling approximately \$56,098), unbilled work-in-progress from September 1, 2023 to October 13, 2023 of approximately \$8,000, and estimated costs to complete these receivership proceedings of \$10,000 (all excluding GST) on the basis that all relief sought in this Fifth Report is granted by this Honourable Court.
47. The professional fees of the Receiver and its counsel are calculated based on hours spent at rates established by each professional based on their qualifications and experience.
48. The Receiver notes that a significant proportion of the receivership costs are largely due to the lack of cooperation and unresponsiveness of Dr. Musah including his failure to provide information to the Receiver or instructions to his former counsel on a timely basis or at all. The Receiver further notes that Dr. Musah has had three different law firms and counsel representing him at different times since the Date of Appointment and two Notices of Withdrawal of Lawyer of Record ("**Notice of Withdrawal**") in relation to the representation of Dr. Musah have been filed in these receivership proceedings, on April 27, 2021 and December 9, 2022. The Receiver was not served with a Notice of Withdrawal by one of the earlier counsel, but they advised they no longer acted for Dr. Musah in early March 2021. A filed copy of the first Notice of Withdrawal that was served on the Receiver on April 21, 2021 can be found in the First Report at the end of Appendix "N". A copy of the second Notice of Withdrawal that was served on the Receiver on December 9, 2022 is attached hereto as **Appendix "H"**. As at the date of this Fifth Report, the Receiver understands that Dr. Musah has no legal representation.
49. On October 20, 2023, Dr Musah acknowledged receipt of the August 10 Correspondence, September 8 Correspondence and the Receiver's request for instruction with respect to the books and records; however, did not address his position with respect to the Alleged Trust Claim or provide instruction with respect to the books and records.
50. In the Receiver's opinion, the services rendered in respect of its fees and disbursements have been duly rendered in response to required and necessary duties of the Receiver hereunder and are reasonable in the circumstances. A summary of the Receiver's invoices is attached as **Appendix "I"**. Detailed time records supporting the invoices are available upon request.
51. The Receiver is of the opinion that legal counsel's fees are reasonable and appropriate in the circumstances. A summary of the Receiver's legal counsel's invoices is attached as **Appendix "J"**. Detailed time records supporting the invoices are available upon request.

Benin property & investment funds

52. As previously discussed in the First Report at paragraph 25(e), the Second Report at paragraph 15(f), and Appendix "F" of the Second Report, in addition to the Canadian Properties, the books and records of CMPC indicated that CMPC made payments totalling approximately \$2.9 million (the "**Benin Funds**") foreign investment property that the Receiver initially understood was located in country of Benin, but

later received clarification from Dr. Musah’s counsel, that it is in fact located in Bode Village near Benin City, Nigeria (the “**Benin Property**”).

53. As set out in paragraphs 14(t), 25(e), 18 and 69 to 72 of the First Report, and paragraph 15(f) of the Second Report, since the Date of Appointment, despite multiple requests and notwithstanding paragraph 9 of the CMPC Sales Process Order compelling the delivery of same, Dr. Musah has failed to provide sufficient information regarding the Benin Property.
54. On July 14, 2021, in response to paragraphs 9 and 10 of the CMPC Sales Process Order, Dr. Musah (via counsel) delivered a letter (the “**July 2021 Correspondence**”) advising the Receiver that the Benin Property is owned by his family and CMPC has no ownership interest. He advised that the Benin Property Payments had the following overlapping purpose: (i) investment in a medical clinic that became unfeasible; and (ii) for the benefit of Dr. Musah’s family, but there was no realizable value from the investment of the Benin Funds. The July 2021 Correspondence failed to provide the majority of the information requested by the Receiver and referenced in the CMPC Sales Process Order. A copy of the July 2021 Correspondence is attached to the Second Report at Appendix “F”.
55. In addition to following up with Dr. Musah and his accountant, at Dr. Musah’s request, to no avail, the Receiver’s counsel sent a further letter to Dr. Musah (via former counsel) on April 14, 2022 (the “**April 2022 Correspondence**”), reiterating the information ordered to be provided and providing alternatives given that Dr. Musah previously advised certain information was not available (e.g. the municipal address, a copy of the legal title, etc.). A copy of the April 2022 Correspondence is attached hereto as **Appendix “K”**.
56. On June 8, 2022, Musah (via former counsel) sent a brief response letter (the “**June 2022 Correspondence**”) to the April 2022 Correspondence that did not sufficiently address any of the information required to be provided pursuant to the CMPC Sales Process Order. The Receiver is of the view that Dr. Musah has not made or satisfied the “best efforts” attempt to provide the information set out in paragraph of the CMPC Sales Process Order. A copy of the June 2022 Correspondence is attached here to as **Appendix “L”**.
57. Given the potential time and cost involved in attempting to investigate the Benin Property and Benin Funds further in the face of the very limited information provided by Dr. Musah, his medical leave and uncertainty regarding the potential for any recovery to CMPC’s estate, the Receiver determined in consultations with BMO, that it was not in the best interest of the Debtors’ estates to expend any further efforts to investigate the Benin Property and Benin Funds.

Final Statement of Receipts and Disbursements

58. The final Statement of Receipts and Disbursements reflecting the administration of the receivership for the period February 12, 2021 to October 13, 2023, attached hereto as **Appendix “D”**, is summarized below:

\$CAD	Eaglesmed Group Inc.	Chris Musah Professional Corporation	Total
Receipts	124,867	1,156,165	1,281,033
Disbursements	(124,867)	(985,993)	(1,110,860)
Estate balances as at October 13, 2023	-	170,173	170,173
Accrual costs to conclude these receivership proceeding:	-	(47,249)	(47,249)
Estimated distribution to BMO	-	122,923	122,923

59. Pursuant to the February 2022 Order, the Receiver can borrow up to \$200,000 in aggregate without further Court approval. As at the date of this Fifth Report, the Receiver’s borrowings total \$100,000 to

fund the receivership proceedings, of which approximately \$35,000 was used to cover administration costs to maintain the Canadian Properties up to June 17, 2022.

60. Pursuant to paragraph 6 of the May 12 Order, the Receiver had discretion to make one or more distributions to BMO upon providing notice to the CMPC and Dr. Musah, who shall have the opportunity to object. As at the date of this Fifth Report, the Receiver made an interim distribution to BMO of approximately \$649,000 upon notice to CMPC and Dr. Musah and no objections were made.
61. The Receiver estimates that a final distribution in the amount of approximately \$123,000 will be available to distribute to BMO.

Remaining Activities and Discharge of Receiver

62. The Receiver has concluded the majority of its administration of the receivership. Subject to the granting of the relief requested herein, the remaining tasks to conclude the receivership proceedings are as follows:
 - a) Settle any remaining estate liabilities and payment of professional fees in the discretion of the Receiver;
 - b) Close all Receiver's accounts with CRA;
 - c) Prepare a final statutory report and file same with the OSB in accordance with subsection 246(3) of the BIA; and
 - d) Close the Receiver's trust accounts.
63. Other than the matters addressed in this Fifth Report, the Receiver has completed its administration of the estate in accordance with the terms of the Receivership Order and the various other orders rendered by the Court in the course of this proceeding. The Receiver is not aware of its services being required for any further purpose other than as set out herein.
64. Accordingly, the Receiver is seeking its discharge which will be effective upon the filing of a Receiver's Certificate certifying completion of the remaining tasks outlined in paragraph 62 above.

Conclusions and Recommendations

65. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the relief detailed in paragraph 13(c) of this Fifth Report and such further and other relief, as this Honourable Court deems appropriate in the circumstances.

* * *

All of which is respectfully submitted at Calgary, Alberta this 23rd day of October 2023.

DELOITTE RESTRUCTURING INC.,
solely in its capacity as Court-appointed Receiver
of the Debtors (as defined herein),
and not in its personal or corporate capacity.

Per:

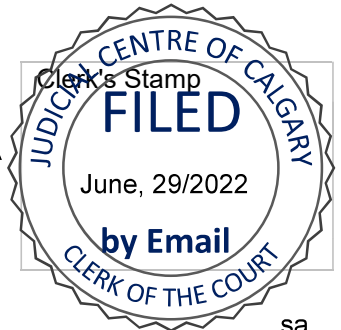


Cassie Poon, CIRP, LIT

Senior Vice-President

APPENDIX "A"

COURT FILE NUMBER 2101-01130
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF BANK OF MONTREAL
DEFENDANT



DOCUMENT **ORDER APPROVING ACTIONS OF RECEIVER, PROFESSIONAL FEES ETC.**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Cassels Brock & Blackwell LLP
Suite 3810, Bankers Hall West
888 3rd Street SW
Calgary, Alberta, T2P 5C5
Telephone: (403) 351-2920
Facsimile: (403) 648-1151
Email: dmarechal@cassels.com / kdavis@cassels.com
File No.: 49073-9

Attention: Danielle Marechal / Kara N. Davis

DATE ON WHICH ORDER WAS PRONOUNCED: Tuesday, June 28, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, AB

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice D.B. Nixon

UPON THE APPLICATION by Deloitte Restructuring Inc. in its capacity as the court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and assets of Eaglesmed Group Inc. ("**Eaglesmed**") and Chris Musah Professional Corporation ("**CMPC**" and together with Eaglesmed, the "**Debtors**") for an order, among other things, (i) approving the conduct and activities of the Receiver; (ii) approving the Receiver's interim statements of receipts and disbursements; and (iii) approving the professional fees and disbursements of the Receiver and its legal counsel; **AND UPON HAVING READ** the Receivership Order dated February 12, 2021, as amended pursuant to an Order Amending Receivership Order dated May 4, 2021 (as amended, the "**Receivership Order**"), the Fourth Report of the Receiver dated June 20, 2022 (the "**Fourth Report**"), the Confidential Supplement to the Fourth Report dated June 20, 2022 (the "**Confidential Supplement**") and the Affidavit of Service of Tiffany Ness sworn June 24, 2022; **AND UPON HEARING** the submissions of counsel for the Receiver and any other interested parties in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of this application (the “**Application**”) and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.
2. Terms not otherwise defined herein shall have the meaning ascribed to them in the Fourth Report, Confidential Supplement and Receivership Order, as applicable.

Approval of Professional Fees

3. The Receiver’s accounts for fees and disbursements for the period of April 26, 2022 to May 18, 2022, as set out in the Fourth Report are hereby approved without the necessity of a formal assessment of its accounts.
4. The accounts for fees and disbursements of the Receiver’s counsel, Cassels Brock & Blackwell LLP, for the period of February 1, 2022 to May 31, 2022, as set out in the Fourth Report are hereby approved without the necessity of a formal assessment of its accounts.
5. Payment of the professional fees by the Receiver in paragraphs 3 and 4 of this Order is without prejudice to:
 - (a) the outcome of the Trust Claim, as that term is defined in paragraph 8 of the Order of the Honourable Madam Justice K.M. Horner, pronounced February 16, 2022 in the within proceedings; and
 - (b) any arguments regarding the allocation of amounts secured by the Receiver’s Charge and Receiver’s Borrowing Charge.

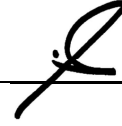
Actions of the Receiver

6. The Receiver’s conduct and activities as set out in the Fourth Report and Confidential Supplement are hereby ratified and approved.
7. The Receiver’s statement of receipts and disbursements for the period ending June 17, 2022, attached as Appendix “G” to the Fourth Report, is hereby ratified and approved.

Service

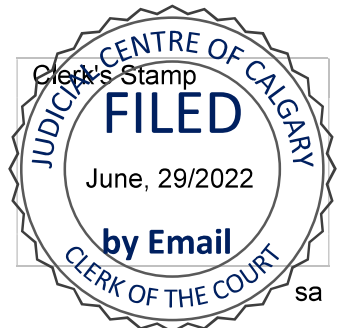
8. Service of this Order shall be deemed good and sufficient by serving same on the persons and by the method listed on the service list in these proceedings and by posting a copy of it on the Receiver's website at: www.insolvencies.deloitte.ca/en-ca/Eaglesmed.
9. Service of this Order on any party not listed on the service list for this Application is hereby dispensed with.

J.C.Q.B.A

A handwritten signature in black ink, consisting of a stylized, cursive letter 'J' followed by a horizontal line that extends to the right, crossing the printed name 'J.C.Q.B.A'.

APPENDIX "B"

COURT FILE NUMBER 2101-01130
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF BANK OF MONTREAL
DEFENDANTS EAGLESMED GROUP INC., CHRIS MUSAH PROFESSIONAL CORPORATION, CHRISTOPHER MUSAH, ALSO KNOWN AS CHRIS MUSAH, CHARLES FRANKLIN JOHNSON PROFESSIONAL CORPORATION, CHARLES FRANKLIN JOHNSON, YETUNDE KASUMU MEDICAL PROFESSIONAL CORPORATION and YETUNDE KASUMU



DOCUMENT **APPROVAL AND VESTING ORDER
(Sale by Receiver)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Cassels Brock & Blackwell LLP
Suite 3810, Bankers Hall West
888 3rd Street SW
Calgary, Alberta, T2P 5C5
Telephone: (403) 351-2920
Facsimile: (403) 648-1151
Email: dmarechal@cassels.com / kdavis@cassels.com
File No.: 49073-9

Attention: Danielle Marechal / Kara N. Davis

DATE ON WHICH ORDER WAS PRONOUNCED: Tuesday, June 28, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice D.B. Nixon

UPON THE APPLICATION by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and assets of Chris Musah Professional Corporation (the "**Debtor**"), among others, for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Simeon Joannes Dewit (the "**Purchaser**") dated June 15, 2022 and appended to the Fourth Report of the Receiver dated June 20, 2022 (the "**Report**"), and vesting in the Purchaser (or its nominee) the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**");

AND UPON HAVING READ the Receivership Order dated February 12, 2021 (the "**Receivership Order**"), the Report and the Affidavit of Service; **AND UPON HEARING** the submissions

of counsel for the Receiver, the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved, and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its nominee).

VESTING OF PROPERTY

3. Upon delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Closing Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets listed in **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order;
 - (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
 - (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and
 - (d) those Claims listed in **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, caveats,

interests, easements, and restrictive covenants listed in **Schedule “D”** (collectively, **“Permitted Encumbrances”**)),

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets

4. Upon delivery of the Receiver’s Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, **“Governmental Authorities”**) are hereby authorized, requested and directed to accept delivery of such Receiver’s Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:
- (a) the Registrar of Land Titles (**“Land Titles Registrar”**) for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
- (i) cancel existing Certificates of Title No. 142 295 321 for those lands and premises municipally described as 16 Cutbank Close, Rural Red Deer County, AB, T0M 1S0, and legally described as:
- PLAN 1860TR
BLOCK A
LOT 16
EXCEPTING THEREOUT ALL MINES AND MINERALS
- (the **“Lands”**)
- (ii) issue a new Certificate of Title for the Lands in the name of the Purchaser (or its nominee), namely, Simeon Joannes Dewit;
- (iii) transfer to the New Certificate of Title the existing instruments listed in **Schedule “D”**, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in **Schedule “D”**; and
- (iv) discharge and expunge the Encumbrances listed in **Schedule “C”** to this Order and discharge and expunge any Claims including Encumbrances (but excluding

Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;

- (b) the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtor in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.
5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.
7. Upon delivery of the Receiver’s Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.
8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver’s Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further

order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.

9. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.
10. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
13. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtor was entitled.

MISCELLANEOUS MATTERS

15. Notwithstanding:
- (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of the Debtor; and
 - (d) the provisions of any federal or provincial statute:


the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

16. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
17. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
18. Service of this Order shall be deemed good and sufficient by:
- (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;

- (iii) any other parties attending or represented at the application for this Order;
- (iv) the Purchaser or the Purchaser's solicitors; and
- (b) Posting a copy of this Order on the Receiver's website at:
www.insolvencies.deloitte.ca/en-ca/Eaglesmed

and service on any other person is hereby dispensed with.

19. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of Queen's Bench of Alberta

Schedule "A"**Form of Receiver's Certificate**

COURT FILE NUMBER	2101-01130	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
PLAINTIFF	BANK OF MONTREAL	
DEFENDANTS	EAGLESMED GROUP INC., CHRIS MUSAH PROFESSIONAL CORPORATION, CHRISTOPHER MUSAH, ALSO KNOWN AS CHRIS MUSAH, CHARLES FRANKLIN JOHNSON PROFESSIONAL CORPORATION, CHARLES FRANKLIN JOHNSON, YETUNDE KASUMU MEDICAL PROFESSIONAL CORPORATION and YETUNDE KASUMU	
DOCUMENT	RECEIVER'S CERTIFICATE	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Cassels Brock & Blackwell LLP Suite 3810, Bankers Hall West 888 3 rd Street SW Calgary, Alberta, T2P 5C5 Telephone: (403) 351-2920 Facsimile: (403) 648-1151 Email: joliver@cassels.com / kdavis@cassels.com File No.: 49073-9	

Attention: Jeffrey Oliver / Kara N. Davis

RECITALS

- A. Pursuant to an Order of the Honourable Justice D.B. Nixon of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated February 12, 2021, Deloitte Restructuring Inc. was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of Chris Musah Professional Corporation (the "**Debtor**"), among others.
- B. Pursuant to an Order of the Court dated June 28, 2022, the Court approved the agreement of purchase and sale made as of June 15, 2022 (the "**Sale Agreement**") between the Receiver and Simeon Joannes Dewit (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing in the Sale Agreement have been satisfied or waived by

the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver on [●], 2022

Deloitte Restructuring Inc., in its capacity as Receiver of the undertakings, property and assets of Chris Musah Professional Corporation, and not in its personal capacity.

Per: _____

Name:

Title:

Schedule "B"

Purchased Assets

See attached certificate of title.



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0015 329 246 1860TR;A;16 142 295 321

LEGAL DESCRIPTION
PLAN 1860TR
BLOCK A
LOT 16
EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE
ATS REFERENCE: 4;24;36;6;NE

MUNICIPALITY: RED DEER COUNTY

REFERENCE NUMBER: 072 407 795

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
142 295 321	08/09/2014	TRANSFER OF LAND	\$840,500	CASH & MORTGAGE

OWNERS

CHRIS MUSAH PROFESSIONAL CORPORATION.
OF 2630 EVERCREEK BLUFFS WAY SW
CALGARY
ALBERTA T2Y 4V7

ENCUMBRANCES, LIENS & INTERESTS		
REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
962 238 173	04/09/1996	UTILITY RIGHT OF WAY GRANTEE - CROSSROADS GAS CO-OP LTD.
142 295 322	08/09/2014	MORTGAGE MORTGAGEE - BANK OF MONTREAL. MORTGAGE SERVICE CENTRE 865 HARRINGTON COURT BURLINGTON ONTARIO L7N3P3

 ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
 # 142 295 321

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

ORIGINAL PRINCIPAL AMOUNT: \$622,400

182 170 839 13/07/2018 CERTIFICATE OF LIS PENDENS
 BY - IRIS KHUMALO MUSAH
 MATRIMONIAL PROPERTY ACT

212 063 395 16/03/2021 ORDER
 IN FAVOUR OF - DELOITTE RESTRUCTURING INC.
 3810, 888-3 ST SW
 CALGARY
 ALBERTA T2P5C5
 RECEIVERSHIP ORDER

TOTAL INSTRUMENTS: 004

 PENDING REGISTRATION QUEUE

DRR NUMBER	RECEIVED DATE (D/M/Y)	CORPORATE LLP TRADENAME	LAND ID
D0032J3	08/04/2022	MILES DAVISON LLP 4032980396 CUSTOMER FILE NUMBER: 49700 DKJ	
001		CAVEAT	1860TR;A;16
002		CAVEAT	1860TR;A;16

TOTAL PENDING REGISTRATIONS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
 ACCURATE REPRODUCTION OF THE CERTIFICATE OF
 TITLE REPRESENTED HEREIN THIS 28 DAY OF JUNE,
 2022 AT 09:55 A.M.

ORDER NUMBER: 44818366

CUSTOMER FILE NUMBER: 49073-9 kn



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER, SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

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IF MORE INFORMATION IS REQUIRED ON A PENDING REGISTRATION WHERE THE CONTACT INFORMATION DISPLAYS N/A PLEASE EMAIL LTO@GOV.AB.CA.

Schedule "C"**Encumbrances**

REGISTRATION NUMBER	DATE	PARTICULARS
142 295 322	08/09/2014	MORTGAGE MORTGAGEE - BANK OF MONTREAL
182 170 839	13/07/2018	CERTIFICATE OF LIS PENDENS BY - IRIS KHUMALO MUSAH MATRIMONIAL PROPERTY ACT
212 063 395	16/03/2021	ORDER IN FAVOUR OF - DELOITTE RESTRUCTURING INC.
D0032J3 (Pending Registration Number)	08/04/2022	MILES DAVISON LLP 4032980396 CUSTOMER FILE NUMBER: 49700 DKJ

Schedule "D"**Permitted Encumbrances**

REGISTRATION NUMBER	DATE	PARTICULARS
962 238 173	04/09/1996	UTILITY RIGHT OF WAY GRANTEE – CROSSROADS GAS CO-OP LTD.

APPENDIX "C"

COURT FILE NO.: 2101-01130
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF BANK OF MONTREAL



DEFENDANTS EAGLESMED GROUP INC., CHRIS MUSAH PROFESSIONAL CORPORATION, CHRISTOPHER MUSAH, ALSO KNOWN AS CHRIS MUSAH, CHARLES FRANKLIN JOHNSON PROFESSIONAL CORPORATION, CHARLES FRANKLIN JOHNSON, YETUNDE KASUMU MEDICAL PROFESSIONAL CORPORATION and YETUNDE KASUMU

DOCUMENT **SEALING ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Cassels Brock & Blackwell LLP
Suite 3810, Bankers Hall West
888 3rd Street SW
Calgary, Alberta, T2P 5C5
Telephone: (403) 351-2920
Facsimile: (403) 648-1151
Email: dmarechal@cassels.com / kdavis@cassels.com
File No.: 49073-9

Attention: Danielle Marechal / Kara N. Davis

DATE ON WHICH ORDER WAS PRONOUNCED: Tuesday, June 28, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice D.B. Nixon

UPON THE APPLICATION OF Deloitte Restructuring Inc. in its capacity as the court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and assets of Eaglesmed Group Inc. ("**Eaglesmed**") and Chris Musah Professional Corporation ("**CMPC**" and together with Eaglesmed, the "**Debtors**") for an order, *inter alia*, authorizing the Receiver to enter into asset purchase agreement (the "**APA**") between the Receiver and Simeon Joannes Dewit (the "**Purchaser**"), dated June 15, 2022; **AND UPON HAVING READ** the Fourth Report of the Receiver dated June 20, 2022 (the "**Fourth Report**"), the Confidential Supplement to the Fourth Report dated June 20, 2022 (the "**Confidential Supplement**") and the Affidavit of Service of Tiffany Ness sworn June 24, 2022; **AND UPON HEARING** the submissions of counsel for the Receiver and any other interested parties in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of this application (the “**Application**”) and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.

Sealing Order

2. The Confidential Supplement shall be sealed on the Court file, notwithstanding Division 4 of Part 6 of the *Alberta Rules of Court*, Alta Reg 124/2010.
3. The Confidential Supplement shall be sealed and kept confidential, to be shown only to a Justice of the Court of Queen’s Bench of Alberta, and accordingly, shall be filed with the Clerk of the Court who shall keep the Confidential Supplement in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED IN COURT FILE NO. 2101-01130. THE CONFIDENTIAL MATERIALS ARE SEALED PURSUANT TO THE SEALING ORDER ISSUED BY THE HONOURABLE MR. JUSTICE D.B. NIXON ON JUNE 28, 2022.
4. The Confidential Supplement shall remain sealed until the earlier of: (i) the filing of Receiver’s certificate confirming that the transaction contemplated by the APA has been completed to the satisfaction of the Receiver; (ii) the discharge of the Receiver; or (iii) further Order of this Honourable Court.
5. The Receiver is empowered and authorized, but not directed, to provide the Confidential Supplement (or any portion thereof, or information contained therein) to any interested party, entity or person that the Receiver considers reasonable in the circumstances, subject to confidentiality arrangements satisfactory to the Receiver.
6. Any party may apply to set aside paragraph 3 of this order upon providing the Receiver and all other interested parties with 5 days notice of such application.
7. Service of this Order shall be deemed good and sufficient by serving same on the persons and method listed on the service list in these proceedings and by posting a copy of it on the Receiver’s website at: www.insolvencies.deloitte.ca/en-ca/Eaglesmed.
8. Service of this Order on any party not listed on the service list for this Application is hereby dispensed with.

J.C.Q.B.A



APPENDIX "D"

**In the Matter of the Receivership of Eaglesmed Group Inc. and
Chris Musah Professional Corporation**
Combined Statement of Receipts and Disbursements
As at October 13, 2023
(All amounts in \$CAD)

	Notes	Eaglesmed Group Inc.	Chris Musah Professional Corporation				Total	
			Total	General Administration	Unit 703	Unit 702		Pine Lake
Receipts								
Sale of assets		45,000	1,086,890	19,172	199,481	274,101	594,136	1,131,890
Receiver's borrowings	1	-	100,000	100,000				100,000
Cash on hand		18,546	5,335	5,335				23,881
Transfer to (from) other estates		60,443	(60,443)	(60,443)				-
Rental Income		-	12,150	-	12,150			12,150
Insurance refund		-	2,546	2,546				2,546
Refund Utilities		-	172	172				172
WCB collections		435	-	-				435
Accounts receivable		260	-	-				260
Interest		-	9,515	9,515				9,515
Critical worker benefit		184	-	-				184
Total receipts		124,867	1,156,165	76,297	211,631	274,101	594,136	1,281,033
Disbursements								
Interim Distribution to BMO	2	-	648,789	-	124,243	196,388	328,158	648,789
Receivers Fees		68,411	125,488	54,058	20,003	21,487	29,940	193,899
Legal fees		42,218	158,361	82,067	21,366	22,950	31,978	200,580
Insurance		832	12,587	518	1,026	1,519	9,524	13,420
Condominium fees		-	15,131	-	5,388	9,743	-	15,131
Property maintenance		-	6,776	-	133	133	6,510	6,776
Utilities		-	4,028	(322)	-	850	3,499	4,028
WEPP priority claim		2,717	-	-	-	-	-	2,717
Locksmith		-	329	-	-	-	329	329
Appraisal fee		4,000	-	-	-	-	-	4,000
Other expenses		809	-	-	-	-	-	809
GST paid		5,808	14,407	6,561	2,197	2,360	3,288	20,215
Property/Realty Taxes		-	25	25	-	-	-	25
Filing fees to the Official Receiver		72	72	72	-	-	-	143
Total disbursements		124,867	985,993	142,979	174,356	255,431	413,227	1,110,860
Estate balances as at October 13, 2023		-	170,173	(66,681)	37,275	18,670	180,909	170,173
Accruals to close:								
Receiver's fees		-	(17,478)	(17,478)	-	-	-	(17,478)
Legal fees		-	(27,522)	(27,522)	-	-	-	(27,522)
GST on professional fees		-	(2,250)	(2,250)	-	-	-	(2,250)
Final Distribution to BMO	2	-	(122,923)	113,931	(37,275)	(18,670)	(180,909)	(122,923)
Estimated cash surplus (shortfall)		-	0	-	-	-	-	(0)

Notes:

- Pursuant to the February 16 Order, the Receiver may borrow up to \$200,000 in aggregate without further Court approval. As at the date of this Third Report, the Receiver's borrowings total \$100,000 to fund the receivership proceedings, of which approximately \$39,000 was used to cover administration costs to maintain and close the sales the Canadian Properties.
- The sale of the Canadian Properties, net of the receivership administration costs, did not result in sufficient recoveries to pay the outstanding BMO mortgage balances in full. The Receiver anticipates BMO will suffer a shortfall on each of the properties as shown below:

	Total	Unit 703	Unit 702	Pine Lake
Sales proceeds held in Trust	1,067,718	199,481	274,101	594,136
Carrying costs	(38,655)	(6,547)	(12,246)	(19,862)
Receiver's Fees	(74,908)	(20,977)	(22,533)	(31,397)
Legal fees	(80,662)	(22,589)	(24,264)	(33,809)
Net sales proceeds available for distribution	873,493	149,368	215,058	509,067
Rental income	12,150	12,150	-	-
Estimated Total Distribution to BMO	885,643	161,518	215,058	509,067
Outstanding mortgage balances as at Date of Receivership	(976,968)	(178,028)	(245,731)	(553,209)
Less: Interim distribution to BMO	648,789	124,243	196,388	328,158
Plus: accrued interest and cost for the period ending July 28, 2023	(67,653)	(11,005)	(16,952)	(39,696)
Outstanding mortgage balance as at July 28, 2023	(395,833)	(64,791)	(66,295)	(264,747)
Estimated Final Distribution to BMO	236,854	37,275	18,670	180,909
Estimated shortfall in BMO mortgage payout	(158,978)	(27,516)	(47,625)	(83,837)

APPENDIX "E"

THIS DECLARATION OF BARE TRUST AND NOMINEE AGREEMENT
(the "**Agreement**") is dated and effective as of the 10th day of September, 2015.
(the "**Effective Date**").

BETWEEN:

Vanessa Osilamah Musah and Joshua Igenegba Musah
(collectively, the "**Beneficial Owners**")

- and -

Christopher Musah Professional Corporation
(the "**Nominee**")

RECITALS:

A. The Nominee is the registered owner of the following properties:

- (i) #702, 10 Shawnee Hill SW, Calgary, Alberta;
- (ii) #703, 10 Shawnee Hill SW, Calgary, Alberta; and
- (iii) #16 Cutbank Close, Red Deer County, Alberta.

(collectively, the "**Properties**").

B. Legal title to the Properties has been registered in the name of the Nominee at the Southern Alberta Land Titles Registry and the Nominee has acquired and holds legal title to the Properties, as nominee, agent and bare trustee for the sole benefit and account of the Beneficial Owners as principals and Beneficial Owners, in accordance with this Agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Appointment

The Beneficial Owners hereby appoint the Nominee as its nominee, agent and bare trustee to hold legal title to the Properties for and on behalf of the Beneficial Owners, subject always to the terms and conditions of this Agreement.

2. Nominee's Agreements

The Nominee hereby acknowledges and agrees that:

- (a) the Nominee has acquired and holds the legal title to the Properties as nominee, agent and bare trustee for the sole benefit and account of the Beneficial Owners as principals and Beneficial Owners and the Nominee has and will have no equitable or beneficial interest therein, and the equitable and beneficial interest in the Properties will be vested solely and exclusively in the Beneficial Owners;

- (b) any benefit, interest, profit or advantage arising out of or accruing from the Properties is and will continue to be a benefit, interest, profit or advantage of the Beneficial Owners and if received by the Nominee will be received and held by the Nominee for the sole use, benefit and advantage of the Beneficial Owners and the Nominee will account to the Beneficial Owners for any money or other consideration paid to or to the order of the Nominee in connection with the Properties as directed in writing by the Beneficial Owners;
- (c) the Nominee will, upon the direction of the Beneficial Owners, deal with the Properties and do all acts and things in respect of the Properties at the expense of and as directed by the Beneficial Owners from time to time and will assign, transfer, convey, lease, pledge, charge, or otherwise deal with the Properties or any portion thereof at any time and from time to time in such manner as the Beneficial Owners may determine, to the extent permitted under all relevant laws, without limiting the generality of the foregoing, the Nominee will transfer legal title to the Properties to or as directed by the Beneficial Owners forthwith upon the written demand of the Beneficial Owners; and
- (d) the Nominee will not deal with the Properties in any way or execute any instrument, document or encumbrance in respect of the Properties without the prior consent or direction of the Beneficial Owners.

3. Indemnity by Beneficial Owners

The Beneficial Owners hereby agree to indemnify and save harmless the Nominee against any and all liability, loss, cost, action, claim or expense resulting from the Nominee's holding of title to or dealing with the Properties as directed by the Beneficial Owners from time to time, except to the extent that the same results from a dishonest, fraudulent or negligent act or omission of the Nominee or its employees or agents.

4. Further Assurances

The Nominee will perform all such other acts and things and execute all such other documents as are necessary or desirable in the reasonable opinion of the Beneficial Owners to evidence or carry out the terms or intent of this Agreement.

5. Governing Law

This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws of Alberta, which will be deemed to be the proper law hereof, and the courts of Alberta will have the non-exclusive jurisdiction to entertain and determine all claims and disputes arising out of or in any way connected with this Agreement and the validity, existence and enforceability hereof.

6. Amendment


This Agreement may be altered or amended only by an agreement in writing signed by the parties hereto.

7. Enurement


This Agreement will enure to the benefit of and be binding upon the respective successors, legal representatives and assigns of the parties.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.


CHRISTOPHER MUSAH PROFESSIONAL CORPORATION

Per: 
Name: Dr. Christopher Musah
Title: Director

Witness:


Christopher Musah, for and on behalf of
Vanessa Osilamah Musah

Witness:


Christopher Musah, for and on behalf of
Joshua Igenegba Musah

SHAREHOLDERS AND BOARD OF DIRECTORS RESOLUTION
CHRIS MUSAH PROFESSIONAL CORPORATION (CMPC).

10 September 2015.

Matters:

1. Holding real properties in trust by Chris Professional corporation (CMPC), that belong to Minors: Joshua Igenegba Musah (Date of Birth: 15th September 2006), Special needs (Autistic) son of Dr Christopher Musah and Iris Khumalo-Musah and Vanessa Osilamah Musah.
2. CMPC holds the life insurance of Dr Chris Musah in trust as a beneficiary on behalf of Dr Chris Musah's Children (Vanessa Musah- Date of birth: 15 September 2003 and Joshua Musah- date of Birth 15 September 2006).

Resolution:

The only voting Shareholder (Dr Christopher Musah) resolves that the following properties are owned by Joshua Igenegba Musah and Vanessa Musah; and were purchased by funds that were due to Dr. Chris Musah, held by CMPC as shareholder loan for the total amount of the purchase price of properties described herewith, are owned by Joshua Musah and Vanessa Musah and held in trust by CMPC until the Children Legal aid lawyers or CMPC apply to the courts for transfer of these properties and Insurance policy beneficiary status to Dr Chris Musah's children when they reach the age of majority.

Real Properties:

1. Unit 702, Highbury luxury towers, 10 Shawnee Hill road, Calgary, Alberta.
2. Unit 703, Highbury luxury towers, 10 Shawnee Hill road, Calgary, Alberta.
3. 16 CutBank close, Pine Lake Alberta.

Signed 

10 Sept 2015
Dr. Christopher Musah

President, Sole owner, Sole Voting Shareholder and Sole voting Board member and Chairman of the board.

APPENDIX "F"

Cassels

September 8, 2023

Via E-Mail & Courier

chrismusah@gmail.com
chris.dr.musahspractice@gmail.com

dmarechal@cassels.com
tel: +1 403 351 2922
fax: +1 403 648 1151
file # 49073-9

Eaglesmed Group Inc.
2630 Evercreek Bluffs Way SW
Calgary, AB, T2Y 4V7

Attention: Dr. Christopher Musah

Chris Musah Professional Corporation
c/o 2630 Evercreek Bluffs Way SW
Calgary, AB, T2Y 4V7

Attention: Dr. Christopher Musah

Christopher Musah
2630 Evercreek Bluffs Way SW
Calgary, AB, T2Y 4V7

Dear Sir:

**Re: Bank of Montreal v. Eaglesmed Group Inc. et al
Receivership Order pronounced on February 12, 2021 (the "Receivership Order") in Court
of King's Bench Action No. 2101-01130 (the "Receivership Proceedings")**

As you are aware, we are counsel to Deloitte Restructuring Inc. ("**Deloitte**") in its capacity as receiver and manager (in such capacity, the "**Receiver**") of the assets, undertakings and properties (collectively, the "**Property**") of Eaglesmed Group Inc. ("**Eaglesmed**") and Chris Musah Professional Corporation ("**CMPC**") and together with Eaglesmed, the "**Debtors**"). We are writing further to our correspondence of August 10, 2023, a copy of which is enclosed for your reference (the "**August 10 Correspondence**"). Terms not otherwise defined herein shall have the meaning ascribed to them in our August 10 Correspondence.

As noted in our August 10 Correspondence, we have scheduled court time at 2:00 pm on Tuesday, October 31, 2023 (the "**Application**"), during which Application the Receiver intends to (among other things) seek:

- (a) its discharge;

- (b) authorization to pay all of the fees and disbursements of the Receiver and its counsel from the estate proceeds;
- (c) authorization to pay all of the residual estate proceeds to the Bank of Montreal (“**BMO**”); and
- (d) a declaration that the Alleged Trust Claim (as defined in the First Report of the Receiver dated April 26, 2021) need not be determined as there will be no residual estate proceeds following payment of the costs of administration (including the professional fees) and the amounts owing to BMO;

(the “**Anticipated Relief**”).

Our August 10 Correspondence also provided you with some additional information as to the basis for the Anticipated Relief and requested that you advise us by no later than August 24, 2023 if you will be opposing the Anticipated Relief. As of the date of this letter, we have not received a response from you in relation to our August 10 Correspondence.

We are writing to advise you that the Receiver will be proceeding with the Application as scheduled and that we anticipate receiving instructions to oppose any adjournment requests to the extent you do not respond to our communications and do not book Court time to have the Trust Claim heard on or before October 31, 2023.

We trust you will find the foregoing in order but please do not hesitate to contact the undersigned should you have any questions.

Yours truly,

Cassels Brock & Blackwell LLP

Danielle Marechal

Danielle Marechal
Partner

DM
cc: Deloitte, Dentons

LEGAL*60184824.1

Cassels

August 10, 2023

Via E-Mail & Courier

chrismusah@gmail.com
chris.dr.musahspractice@gmail.com

dmarechal@cassels.com
tel: +1 403 351 2922
fax: +1 403 648 1151
file # 49073-9

Eaglesmed Group Inc.
2630 Evercreek Bluffs Way SW
Calgary, AB, T2Y 4V7

Attention: Dr. Christopher Musah

Chris Musah Professional Corporation
c/o 2630 Evercreek Bluffs Way SW
Calgary, AB, T2Y 4V7

Attention: Dr. Christopher Musah

Christopher Musah
2630 Evercreek Bluffs Way SW
Calgary, AB, T2Y 4V7

Dear Sir:

**Re: Bank of Montreal v. Eaglesmed Group Inc. et al
Receivership Order pronounced on February 12, 2021 (the "Receivership Order") in Court
of King's Bench Action No. 2101-01130 (the "Receivership Proceedings")**

As you are aware, we are counsel to Deloitte Restructuring Inc. ("**Deloitte**") in its capacity as receiver and manager (in such capacity, the "**Receiver**") of the assets, undertakings and properties (collectively, the "**Property**") of Eaglesmed Group Inc. ("**Eaglesmed**") and Chris Musah Professional Corporation ("**CMPC**") and together with Eaglesmed, the "**Debtors**").

The Receiver has completed its realization of the Property and has scheduled court time at 2:00 pm on Tuesday, October 31, 2023 (the "**Application**"), during which Application the Receiver intends to (among other things) seek:

- (a) its discharge;
- (b) authorization to pay all of the fees and disbursements of the Receiver and its counsel from the estate proceeds;

- (c) authorization to pay all of the residual estate proceeds to the Bank of Montreal ("**BMO**"); and
- (d) a declaration that the Alleged Trust Claim (as defined in the First Report of the Receiver dated April 26, 2021) need not be determined as there will be no residual estate proceeds following payment of the costs of administration (including the professional fees) and the amounts owing to BMO.

It is the view of the Receiver that the foregoing relief can be sought without adjudicating the Alleged Trust Claim for the following reasons. Terms not otherwise defined below shall have the meaning ascribed to them in the Affidavit of Christopher Musah sworn April 7, 2022 in the Receivership Proceedings (the "**Musah Affidavit**").

1. As per paragraphs 8 and 9 of the Musah Affidavit, you swear to the fact that:
 - (a) the Trust Properties were purchased in part with mortgage funds from BMO and that separate BMO mortgages (the "**BMO Mortgages**") are registered against each Trust Property; and
 - (b) you do not dispute the validity of the BMO Mortgages registered against the Trust Properties. Rather, it is your position that "any equity in the Trust Properties over and above the respective BMO mortgages must be held in trust for Vanessa and Josh and that such equity is not captured by BMO's general security over the assets of CMPC."
2. Pursuant to the standard mortgage terms (the "**Standard Terms**") incorporated by reference in each of the BMO Mortgages (copies of which Standard Terms are enclosed for your reference), you have agreed as follows:
 - (a) To pay to BMO any amount needed to compensate BMO for a breach of the borrower's obligations under the BMO Mortgages as well as all costs, which costs include all costs incurred for collecting what is owed to BMO, if the mortgage goes into default, and all costs incurred in exercising BMO's powers under the BMO Mortgages.¹ Additionally, whenever the BMO Mortgages require the borrower to pay costs, the costs include lawyers' fees and disbursements on a solicitor and his own client basis and costs for other professionals or agents.²
 - (b) The BMO Mortgages secure all costs and interest thereon.³
3. Any costs of administration incurred in the Receivership Proceedings, including all of the fees and disbursements of the Receiver and its counsel throughout the Receivership Proceedings (collectively, the "**Professional Fees**") that are not paid through estate proceeds will ultimately be the responsibility of BMO. As such, the Professional Fees are caught under Section 2 of the Standard Terms and would therefore be secured by the BMO Mortgages, meaning that the Professional Fees will need to be paid in order for the BMO Mortgages to be paid out in full.
4. On the basis of the foregoing, there will be no equity in the Trust Properties over and above the respective BMO Mortgages until such time as all costs of administration, including the Professional Fees are paid in full.

¹ Standard Terms, ss 2.1 and 2.8.2.

² Standard Terms, s 2.8.3.

³ Standard Terms, ss 2.1 and 2.8.3.

5. As can be seen from the Receiver's statement of receipts and disbursements (set out below) with respect to the funds received for the Trust Properties, upon payment of the amounts owing under the BMO Mortgages (including the Professional Fees) there is no equity remaining in the Trust Properties. In fact, BMO is set to experience a shortfall on each of the Trust Properties.

	Total	Unit 703	Unit 702	Pine Lake
Sales proceeds held in Trust	1,067,718	199,481	274,101	594,136
Carrying costs	(38,655)	(6,547)	(12,246)	(19,862)
Receiver's Fees	(74,908)	(20,977)	(22,533)	(31,397)
Legal fees	(82,736)	(23,170)	(24,888)	(34,678)
Net sales proceeds available for distribution	871,418	148,787	214,434	508,198
Rental income	12,150	12,150	-	-
Estimated Total Distribution to BMO	883,568	160,937	214,434	508,198
Outstanding mortgage balances as at Date of Receivership	(976,968)	(178,028)	(245,731)	(553,209)
Less: Interim distribution to BMO	648,789	124,243	196,388	328,158
Plus: accrued interest and cost for the period ending July 28, 2023	(67,653)	(11,005)	(16,952)	(39,696)
Outstanding mortgage balance as at July 28, 2023	(395,833)	(64,791)	(66,295)	(264,747)
Estimated Final Distribution to BMO	234,779	36,694	18,046	180,040
Estimated shortfall in BMO mortgage payout	(161,053)	(28,097)	(48,250)	(84,707)

6. Additionally, as noted in paragraph 18 of the Receivership Order, the Receiver has been granted a charge on the Property (the **"Receiver's Charge"**) as security for the Professional Fees, which Receiver's Charge "shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens charges and encumbrances, statutory or otherwise, in favour of any Person" [emphasis added].⁴ While we acknowledge that the Receivership Order was subsequently amended (the **"Amended Receivership Order"**) to specifically list the Trust Properties as included in the definition of Property and that this amendment was without prejudice to any trust arguments that may be advanced under the Alleged Trust Claim, the Receiver remains of the view that the Receiver's Charge is in priority to the Alleged Trust Claim as a result of paragraph 18 of the Receivership Order for the following reasons, among others:
- The original, unamended Receivership Order specifically states that the Receiver's Charge forms a first charge on the Property in priority to all trust claims. It is the Receiver's position that because the Trust Properties are legally held by the Debtors, the Trust Properties formed part of the Property subject to the Receivership Order (even before the Amended Receivership Order was granted) and the Receiver's Charge takes priority over the Alleged Trust Claims.
 - The Receivership Order also states that the Receiver's Charge takes priority to "all security interests", which would include BMO Mortgages. In other words, the terms of the Receivership Order mandate that the Professional Fees charge any Property ahead of the BMO Mortgages, meaning that there is no circumstance in which BMO Mortgages are paid out from the proceeds of sale of the Trust Properties without first paying the Professional Fees.

With the benefit of the above information, we are writing to request that you advise us by no later than August 24, 2023 if you will be opposing the Receiver's anticipated relief to have the Professional Fees and other costs of administration paid in full from the estate assets (which estate assets would include sale proceeds from the sale of the Trust Properties) and to pay any residual estate assets to BMO (the **"Anticipated Relief"**).

⁴ Receivership Order at para 18.

In the event that you intend to oppose the Anticipated Relief, we understand that your application to have the Alleged Trust Claim adjudicated (which application was originally scheduled to be heard on May 12, 2022) will need to be heard in advance of, or in conjunction with the Application. As you may recall, pursuant to an Order of the Honourable Madam Justice K.M. Horner granted on February 16, 2022 (the "**February 2022 Order**") in the Receivership Proceedings (a copy of which is enclosed for your reference), the following timelines were ordered with respect to the Trust Claim (as defined in the February 2022 Order):

- (a) Unless, on or before April 15, 2022, the Debtors file and serve an application with supporting evidence (the "**Application Materials**") asserting a trust claim in relation to certain of the real property that form part of estate in these proceedings Trust Claim, the Receiver is hereby authorized and empowered to make one or more distributions to Bank of Montreal that together, total no more than \$2,500,000, provided that such distribution(s) shall be subject to reasonable holdbacks as the Receiver deems necessary for the payment of any priority payables, professional fees and the continued administration of these proceedings.
- (b) Any hearing of the Trust Claim shall be heard within 45 days of the filing of the Application Materials, subject to further order of this Honourable Court or any adjournment that is consented to by the Receiver.

The Application Materials were filed on April 14, 2022, meaning that the hearing of the Trust Claim was to occur by no later than May 30, 2022. However, on April 18, 2022, counsel to BMO advised your former counsel that they wished to cross-examine you on your affidavit prior to the hearing of the Trust Claim. In response, counsel to BMO was advised that you were not able to attend cross-examination due to certain health concerns until at least July 22, 2022. This medical deadline was then extended to October 30, 2022. As a result of these issues, the Receiver agreed to adjourn the hearing of the Trust Claim. We are writing to advise you that the Receiver will no longer agree to an adjournment of the hearing of the Trust Claim beyond October 31, 2023. As such, to the extent you intend to continue to pursue the Trust Claim, we respectfully request that you book Court time to have the Trust Claim heard on or before October 31, 2023 and that you make yourself available to be cross-examined by counsel to BMO within a reasonable amount of time ahead of the hearing of the Trust Claim.

We trust you will find the foregoing in order but please don't hesitate to contact the undersigned should you have any questions.

Yours truly,

Cassels Brock & Blackwell LLP

Danielle Marechal

Danielle Marechal
Partner

DM
cc: Deloitte, Dentons

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Residential Mortgage Alberta

Land Titles Act Standard Form Mortgage

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South Alberta Land Registration District at Calgary and
North Alberta Land Registration District at Edmonton.

General Terms

By entering into the mortgage with us, you promise to repay a loan and you give us security over property. The security gives us a right to have the property used to pay what is owed.

The mortgage includes these **General Terms**.

The General Terms show:

- How you must pay the loan and what costs and taxes you must pay.
- What features apply.
- Your other responsibilities, especially for the property. For example, you must insure, repair and pay taxes on the property and comply with laws.

- Our rights if you don't comply with the mortgage.
- If you're guaranteeing the mortgage, what this means.

In the mortgage, **you** means each person giving security under the mortgage (except in part 13 of the General Terms). **We** means each person receiving the security.

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1. Definitions.

This part explains the meaning of some words in the mortgage.

- 1.1 **Advance.** Where the mortgage says we make an advance to you, it includes our making an advance to anyone you direct.
- 1.2 **Amortization period.**
 - 1.2.1 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 mortgage uses the following amortization periods:

- 1.2.1.1 **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.
- 1.2.1.2 **Remaining contractual amortization period for the mortgage.** At any time, this is the amortization period that was agreed to for the mortgage, less the period since the interest adjustment date.
- 1.2.1.3 **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.

1.3 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."

1.4 Blended interest rate. This is an interest rate that we work out when we make a new loan under section 5.11.1.2 or 5.12.1. 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.

1.5 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.

1.6 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".

1.7 Closed term. See section 1.20, **Open or closed term.**

1.8 Compound interest. This is interest on unpaid interest.

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

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

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

1.12 Interest adjustment date. The first term of the loan under the mortgage 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 the first 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.

1.13 Interest rate for the loan. For a fixed rate term, this is the interest rate calculated for the calculation period as shown in the mortgage. For a variable rate term, the mortgage 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 3.

1.14 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.

1.15 Loan. This is the principal amount that we advance and that the mortgage secures. It includes any advance we make under a re-borrowing.

1.16 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 mortgage, the maximum loan-to-value ratio reflects requirements of the default insurer.

1.17 Low Rate Fixed Closed Mortgage. This is an option for a fixed closed mortgage product that we offer with limited features as described in section 5.

1.18 Mortgage. The mortgage is the document that you're agreeing to that includes these General Terms. If the terms of the mortgage are changed, it means the mortgage as changed.

1.19 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.

1.20 Open or closed term. If the mortgage 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."

1.21 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.

1.22 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.

1.23 Prepayment. This is a payment that you make above the scheduled payment amount under the mortgage. 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.

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

1.25 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."

1.26 Property.

1.26.1 The mortgage gives us security over some real property or land. We refer to this real property or land as the property. It includes all interests in the property, and all rights that go along with the property. It includes buildings and the other things that are referred to in section 7.2.

1.26.2 For a condominium, it's the unit and it includes the rights in the complex over which the mortgage gives us security. For a leasehold interest, it's the leased real property or land and it includes the tenant's interests in that real property or land.

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

- A mortgage or other security.
- A lease, a right of way or other easement or servitude, or a restrictive covenant.
- A lien 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.

1.28 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.

1.29 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.

1.30 Section or part. Where the General Terms refer to a section or part, they mean a section or part of the General Terms, unless they show otherwise.

1.31 Term of the loan. This is the period for which we make the loan to you. 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 first term of the loan under the mortgage begins on the interest adjustment date, and ends on the balance due date.

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

1.33 What is owed. This is the total of the amounts owed to us as described in section 2.1.

1.34 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.

2. What is owed and secured.

2.1 General. Under the mortgage, the following amounts are owed to us:

- Every amount that must be paid to us under the mortgage, including:
 - the loan,
 - interest,
 - compound interest and
 - costs.
- The amounts described in section 2.3.
- Amounts that, as a result of the mortgage, the law requires to be paid to us.
- Any amount needed to compensate us for a breach of your obligations under the mortgage.

Our security secures the amounts listed above and the other obligations to us under the mortgage. If we advance parts of the loan at different times, our security secures every advance. The amounts secured are subject to the limit shown in section 2.3.3.

2.2 The loan. You must repay the loan, and pay interest on it at the interest rate for the loan, in accordance with this section 2.2.

2.2.1 Interest to interest adjustment date. You must pay the interest accrued from the day we make the advance or first 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 or part of it 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.

2.2.2 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 mortgage. 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 mortgage 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.

2.2.3 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.

2.3 Other amounts that the mortgage secures. This section 2.3 describes additional amounts that the mortgage secures. In this section 2.3, **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. The terms in sections 12.12 and 12.13 apply to an agreement under this section 2.3.

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

2.3.2 Additional amounts. Whenever we lend an amount to you and you agree that the mortgage secures that amount or that the amount is lent under the mortgage, the mortgage also secures that amount and the interest on it. You'll be deemed to agree that the mortgage secures an amount:

- if it's a re-borrowing under section 5.3; or
- if, in your agreement for it, you refer to the mortgage.

2.3.3 Limit on amount secured. There's a limit on how much the mortgage secures. The limit is the principal amount of the mortgage. The limit applies only to the following parts of what is owed at any time:

- The loan that is owing under section 2.2.

- The amount that is owing of what we lent under section 2.3.2.

There's no limit on how much the mortgage 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 mortgage.

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

2.5 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.

2.6 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.

2.7 Other terms about payments.

2.7.1 All amounts are expressed in Canadian dollars and are payable in Canadian dollars.

2.7.2 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.

2.7.3 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.)

2.8 Costs.

2.8.1 Costs for the mortgage and security.

Once you've agreed to enter into the mortgage with us, whether we make an advance or not, you must pay us our costs for arranging the mortgage and taking our security. These include, for example, costs for:

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

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

- Doing or paying anything that the mortgage 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; 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 mortgage 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 mortgage goes into default, and exercising our powers under the mortgage.
- Doing anything relating to the mortgage that the mortgage 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 mortgage, for example, sections 7.8, 8.11, 10.10, 11.12, 12.12.1.3 and 12.15.

2.8.3 **Other cost terms.** Wherever the mortgage 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.
- 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 2.8 only as far as permitted by a law that applies despite what you and we have agreed to.

3. Variable rate terms.

3.1 **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 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.

3.2 Interest rates.

3.2.1 **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.

3.3 Payments.

3.3.1 **Instalment.** Although the interest rate for a variable rate term varies, the instalment doesn't change (except under section 3.3.2). 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.

3.3.2 **Effect if interest is more than the instalment.** For any variable rate mortgage 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 section 5.14.2 or 5.17.2.

4. Renewal.

4.1 **Renewal offer.** Shortly before the balance due date, unless you're in default, we'll send you our offer to renew the loan, which will allow you to choose a mortgage product from several options. 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 mortgage. 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:

4.1.1 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.

4.1.2 If you don't have a mortgage product described in section 4.1.1, the new mortgage product is a fixed rate open term of six months.

5. Features.

5.1 What features apply.

5.1.1 The heading for each section of this part 5 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.

5.1.2 This part 5 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.

5.1.3 If the mortgage is in default, you can't use any of the features in this part 5.

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

5.2.1 **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).

5.2.2 **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 5.2.1. 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.

5.2.3 **How we make the change.** When we change the way you pay the instalments under section 5.2.1 or 5.2.2, the terms of section 5.20 apply.

5.2.4 **Instalments after default.** If the mortgage 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 5.2.4, you can't change the way you pay the instalments under section 5.2.1 or 5.2.2. Nothing in this section 5.2.4, and nothing we do under this section 5.2.4, impairs any other right of ours under the mortgage. For example, all of what is owed must still, if we choose, be paid immediately.

5.2.5 **Property Tax or Credit 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.

5.3 Any type of mortgage product except a Low Rate Fixed Closed Mortgage: *Re-borrowing.*

5.3.1 **How much you can re-borrow.** Subject to section 5.3.3, if you've previously prepaid, you may be able to re-borrow on the terms in section 5.3.4.

5.3.1.1 To work out what you can re-borrow:

- First we determine your start date and your initial loan balance, and section 5.3.2 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.

5.3.1.2 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).

5.3.1.3 Some transactions reduce what you can re-borrow. For example, if you've skipped an instalment under section 5.4, that will lower what you can re-borrow.

5.3.2 **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 the mortgage with us, your start date is the interest adjustment date, and your initial loan balance is the principal amount shown in the mortgage.
- If you assumed the mortgage by taking a transfer of the property subject to the mortgage, your start date is the date of transfer, and your initial loan balance is the loan balance on your start date.

5.3.3 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 mortgage with you.
- You're re-borrowing to avoid having the mortgage 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 mortgage is in default, or has gone into default during the last 90 days.
- You have a multi-unit residential mortgage with more than four units.
- You have a default insured mortgage, unless the re-borrowing is permitted by the default insurer.

5.3.4 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, the 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 effect.
- 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 5.20 apply to this change.

5.4 Any type of mortgage product except a Low Rate Fixed Closed Mortgage: Family Care® and Take a Break®.

5.4.1 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 5.3, that may lower how many instalments you can skip.

5.4.2 How many instalments you can skip.

5.4.2.1 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.

5.4.2.2 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.

5.4.3 Terms for skipping instalments.

5.4.3.1 If the mortgage isn't a default insured mortgage:

- 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 5.3.2.
- 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).

5.4.3.2 If the mortgage is a default insured mortgage, the instalments you can skip can't be more than what you can re-borrow under section 5.3.1. 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.

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

5.4.3.4 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.

5.4.3.5 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.

5.4.3.6 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.

5.4.3.7 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.

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

5.4.3.9 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.

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

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

5.4.3.12 The terms of section 5.20 apply to this change.

5.4.4 **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 5.10.1 or 5.18.1. 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.

5.5 **Any type of mortgage product: Transfer.**

5.5.1 **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 your interest in the property. Where more than one person holds the interest, there's a transfer of the interest when there's a transfer by any person.

5.5.2 **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 mortgage. 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 mortgage.

5.5.3 **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 mortgage under section 5.5.2 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 5.5.2 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 mortgage under section 5.5.2, or any of our other rights under the mortgage (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.

5.5.4 **Portability.** If you consent to our dealing with a person who wants to assume the mortgage under section 5.5.2, you give up your option in section 5.11.

5.6 **Fixed rate open term: Increasing the instalment.**

5.6.1 **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.

5.6.2 **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 mortgage when you and we enter into the agreement to make the change.

5.6.3 **How we make the change.** When we increase or lower the instalment under this section 5.6, the terms of section 5.20 apply.

5.7 **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.

5.8 **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 5.20 apply to this change.

5.9 Fixed rate closed term: *Increasing the instalment.*

5.9.1 **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 Low Rate 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.

5.9.2 **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 mortgage when you and we enter into the agreement to make the change.

5.9.3 **How we make the change.** When we increase or lower the instalment under this section 5.9, the terms of section 5.20 apply.

5.10 Fixed rate closed term: *Prepaying.*

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

- The total of what you prepay under this section 5.10.1 in any calendar year cannot be more than:
 - 10% of the original amount of the loan, if you have a Low Rate Fixed Closed Mortgage; or
 - 20% of the original amount of the loan, if you have 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 5.10.1 if you've obtained a payout statement and it hasn't expired or been cancelled.

5.10.2 **Your option to prepay with a prepayment charge.** Except for a Low Rate Fixed Closed Mortgage, at any time during the term of the loan, in addition to your option to prepay under section 5.10.1, you can prepay all or part of what is owed as follows:

5.10.2.1 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 5.21.1.

5.10.2.2 Despite section 5.10.2.1:

- 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 the mortgage, 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.

5.10.2.3 You don't have to tell us in advance that you want to prepay.

5.10.3 **Prepaying a Low Rate Fixed Closed Mortgage.** For a Low Rate 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 5.10.2.1 or 5.10.2.2 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 the mortgage without selling your property if you pay us the prepayment charge described in section 5.10.2.2.

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

5.11.1 **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.

5.11.1.1 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.

5.11.1.2 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 1.4).

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.

5.11.2 **Repaying the old loan.** When we make a new loan under this section 5.11, 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 mortgage.

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

5.12.1 **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 1.4).

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.

5.12.2 **Repaying the old loan.** When we make a new loan under this section 5.12, you must repay all of what is owed at that time on the old loan (including amounts that haven't become due).

5.13 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 5.20 apply to this change.

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

5.14.1 **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.

5.14.2 **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 mortgage when you and we enter into the agreement to make the change.

5.14.3 **How we make the change.** When we increase or lower the instalment under this section 5.14, the terms of section 5.20 apply.

5.15 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.

5.16 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.

You don't have to pay us a prepayment charge. The terms of section 5.20 apply to this change.

5.17 Variable rate closed term: Increasing the instalment.

5.17.1 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.

5.17.2 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.

5.17.3 How we make the change. When we increase or lower the instalment under this section 5.17, the terms of section 5.20 apply.

5.18 Variable rate closed term: Prepaying

5.18.1 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 5.18.1 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 5.18.1 if you've obtained a payout statement and it hasn't expired or been cancelled.

5.18.2 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 5.18.1, 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 or loan. You don't have to tell us in advance that you want to prepay.

5.19 Variable rate closed term: Conversion.

5.19.1 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 5.20 apply to this change.

5.20 Changes generally.

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

5.20.2 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.

5.20.3 Requirements of others. Sometimes the loan may involve another person, for example, the insurer of an insured mortgage. 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).

5.20.4 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.

5.20.5 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.

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

5.20.7 How often you pay a new instalment. Except for a change under section 5.2.1 or 5.2.2, a new instalment after a change will be paid as often as just before a change.

5.20.8 Payment of instalments after you prepay. After you prepay part of what is owed under section 5.7, 5.10, 5.15 or 5.18, the amount of the instalment doesn't change.

5.20.9 General terms. Sections 12.12 and 12.13 apply to an agreement under this section 5.20.

5.21 Interest rate differential charge.

5.21.1 How we calculate the interest rate differential charge.

The interest rate differential charge is the present value of:

- the installments 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 installments 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.

5.21.2 Comparison rate. We work out the comparison rate used in the calculation of the interest rate differential charge in section 5.21.1 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 1.4), the discount is a blend of any discount you received on the prior loan and 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.

6. Multi-unit and non-residential property.

6.1 When this part applies. This part 6 applies to a mortgage where, when the mortgage is entered into, any one or more of the following conditions is met:

- The property contains, or is to contain, five or more dwelling units.
- A dwelling unit hasn't been built on the property. However, this paragraph doesn't apply where we intend advances under the mortgage to be used for building a dwelling unit or dwelling units on the property and the person who has the right to receive the advances is to live in it or at least one of them.
- A material part of the property is being used, or is intended for use, for a commercial or industrial purpose.

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

6.2 Renewal. Part 4 doesn't apply to the mortgage if this part 6 applies to the mortgage.

6.3 Features generally. Except as shown in sections 6.4 and 6.6, part 5 doesn't apply to the mortgage if this part 6 applies to the mortgage.

6.4 Transfer. If this part 6 applies to the mortgage, sections 5.5.1 and 5.5.2 apply.

6.5 Prepaying under a fixed rate closed term. If this part 6 applies to the mortgage, you have a fixed rate closed term, the term of the loan is longer than five years, and the mortgage 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 the mortgage, 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 6.5 applies to the mortgage 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.

6.6 Prepaying under a fixed rate open or variable rate term. If this part 6 applies to the

mortgage and you have a fixed rate open term, section 5.7 applies. If this part 6 applies to the mortgage and you have a variable rate open term, section 5.15 applies.

6.7 Default. If the mortgage is in default, you can't prepay under section 6.5 or 6.6.

7. Our security.

7.1 You give us security. Except where you have a leasehold interest in the property, you transfer the property to and to the use of us and our successors; you mortgage and charge the property to us; and you release all your claims on the property to us. We return the property to you when we discharge the security under section 7.8.

7.2 What's included in the property. The property includes fixtures on it when or after the mortgage is entered into. Without limiting this, you give us security over the things on the property that are listed below, and you agree that they are fixtures:

- Buildings, equipment, other structures, decks, fences or other improvements.
- A structure that's being used like a building, even if the structure is mobile or designed to be made mobile, or was wholly or partly made before being placed on the property.
- Equipment for heating, ventilating or air-conditioning, for example a furnace or air-conditioner.
- Equipment for supplying electricity, gas, hot or cold water or communications.
- Lighting equipment, including bulbs and tubes.
- Window or door screens; storm doors and windows; and window blinds, shutters and awnings.
- Antennas and similar equipment.
- Fire alarm systems and security systems.
- Driveway and sidewalk paving stones.
- Floor coverings, wall-to-wall carpets and fixed mirrors.
- Built-in appliances such as a stove or dishwasher.
- Where you rent out the property, an appliance usually provided by the landlord to a tenant in the property, such as a stove or refrigerator (and you must not, without our prior written consent, remove the appliance).

7.3 Other rights. You assign all of the following rights to us, whether they exist when or after the mortgage is entered into:

- The rights under every insurance policy covering loss of or damage to the property.
- The rights under every insurance policy covering loss of present or future income, rents or profits from the property.
- A right under a trust or other agreement relating to an insurance policy that covers loss of or damage to any part of the property, or loss of present or future income, rents or profits from the property.

- Every right of yours as landlord under a lease or tenancy of the property or part of it.
- Every right of yours as landlord to rent and other amounts payable under a lease or tenancy of the property or part of it.
- The related rights for the lease or tenancy, including a guarantee or indemnity, a security and a right to insurance.
- A right under a property claim, except a leasehold interest in the property.
- A right to repayment of a property tax.
- A right to have anyone fix a defect in the property or pay any loss you may suffer because of a defect, for example, a warranty on a new home.
- A right to a supply of services or materials for work or relating to work.
- The proceeds of the above rights.

This section 7.3 doesn't authorize you to enter into a lease or tenancy. Nor does it give the tenant priority over our security or create a relationship of landlord and tenant between a tenant and us.

7.4 Nature of security. Our security continues until we discharge it under section 7.8. Our security isn't affected by a payment reducing the balance to zero.

7.5 Registration. You irrevocably authorize us, and anyone we authorize, to enter into and register for you an electronic document needed to register the mortgage.

7.6 Our priority. Our security has priority for what is owed over every interest in the property created in favour of another person after the mortgage 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 mortgage 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.

7.7 Title obligations.

7.7.1 Your ownership. You promise that you own the property with a good title to it in fee simple free from any property claim or defect and that the title cannot be defeated. You promise that all property taxes that have become due have been paid.

7.7.2 Your power to give security. You promise that you have the right, power and authority to mortgage the property to us.

7.7.3 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 mortgage. You promise that, if we're entitled under the mortgage to possess or enjoy the property, we'll have quiet possession or enjoyment of it free from property claims.

7.7.4 **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.

7.7.5 **Property claims we accept.** We accept that our security is subject to a property claim that exists when the mortgage is entered into, but only if we've signed a written consent to our security being subject to it, or it's described in the mortgage.

7.8 **Discharge.** 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 mortgage, 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 7.8 requires. These include the usual administration fee that we charge at the time and any registration fee we pay.

8. Further terms for a condominium.

8.1 **Definitions.** In this part 8:

- **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.

8.2 **How this part applies.** This part 8 applies where the property is a unit. All of the other terms of the mortgage apply, except where this part 8 says they don't apply.

8.3 **Our security.** Where section 7.1 or part 9 refers to the **property**, it means the unit. Section 7.1 or part 9 also applies to the rights in

the complex that, under condominium law or the condominium rules, go along with the unit.

8.4 **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 mortgage is entered into, and you irrevocably appoint us your attorney to exercise them. 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.

8.5 **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.

8.6 **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 8.6 even if we wouldn't have been able to exercise your right to vote. None of our rights under the mortgage is impaired because we voted for or consented to anything, or gave you instructions to do so.

8.7 **Insurance.** We have the rights as to insurance under sections 7.3 and 10.1 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.

8.8 **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 10.1.5) restore or replace it where it can't be repaired.

8.9 **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.

8.10 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.

8.11 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.

8.12 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.

9. Further terms for leasehold property.

9.1 Where and how this part applies.

9.1.1 Where you have a leasehold interest in the property, you give us security in the ways set out in this part 9, and we don't have to comply with your obligations under your lease.

Lease means your lease as it may have been or be amended or replaced.

9.1.2 All terms of the mortgage apply where you have a leasehold interest in the property, except sections 7.1 and 7.7, and except where they say that they don't apply in sections 7.3 and 8.4.

9.2 Our security over the leasehold interest.

9.2.1 You give us security over the leasehold interest in the following ways:

9.2.1.1 You mortgage or charge the leasehold interest to us, except where the effect of doing so would be to assign the leasehold interest to us.

9.2.1.2 Where the effect of your mortgaging or charging the leasehold interest to us would be to assign the leasehold interest to us:

- You sublease the property to us for the rest of the term of the lease, except the last day of the term.
- You must hold the leasehold interest in trust for us, and dispose of or deal with the leasehold interest as we choose. At any time, we can appoint anyone as a trustee in your place, and use every power that the law gives to a person who appoints a trustee in order to transfer the leasehold interest to this trustee.

9.2.2 Where part 11 refers to anything covered by our security, it includes the leasehold interest. For example, if the mortgage goes into default, we can sell, dispose of or become the holder of the leasehold interest or the sublease under section 9.2.1.2. We can do whatever is needed under this part 9 to give effect to this.

9.3 Our security over other rights. You transfer to us every right of the tenant under the lease other than the leasehold interest. For example, you transfer to us the benefit of any option to renew the lease or any option to purchase the property.

9.4 Title obligations.

9.4.1 *The leasehold interest.* You give us the following promises:

- You hold the leasehold interest with a good leasehold title free from any property claim 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 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.

9.4.2 **Your power to give security.** You promise that you have the right, power and authority (including any required approval or consent) to give us security over the leasehold interest, and over every other right of the tenant under the lease, in the ways shown in this part 9.

9.4.3 **Other promises.** You promise to protect your title to the leasehold interest and every other right of the tenant under the lease. You promise that 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 mortgage. You promise that, while we're entitled under the mortgage to possess or enjoy the property, we'll have quiet possession or enjoyment of it free from property claims.

9.4.4 **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.

9.4.5 **Property claims we accept.** We accept that our security is subject to the lease, and we accept that our security is subject to a property claim, only if we've signed a written consent to our security being subject to it or it's described in the mortgage.

9.5 Responsibilities for the lease.

9.5.1 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 9.5.1 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.

9.5.2 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.

9.6 **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 under section 9.2.1.2, our sublease is extended for the rest of the extended term of the lease, except the last day of that term.

9.7 **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.

9.8 **Power of attorney to us.** You irrevocably appoint us as your attorney to do for you everything that this part 9 requires you to do.

10. Other responsibilities.

10.1 Insurance.

10.1.1 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 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.

10.1.2 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.

10.1.3 **Other requirements.** All insurance under the mortgage 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.

10.1.4 **Your other obligations.** You must promptly pay the premiums for all insurance required under the mortgage. 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.

10.1.5 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.

10.1.6 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.

10.1.7 Our right to insure. If you don't comply with any of your obligations under this section 10.1, we can arrange any insurance that we choose in order to protect our security.

10.2 Property taxes.

10.2.1 Generally. Except where we pay property taxes under section 10.2.2, you must pay all property taxes when they're due. We can choose not to collect regular payments of property taxes under section 10.2.2. When we choose not to collect regular payments, we can later choose to collect them.

10.2.2 You're paying property taxes by regular payments.

10.2.2.1 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.

10.2.2.2 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.

10.2.2.3 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.

10.2.2.4 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 mortgage 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.

10.2.2.5 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.

10.3 Property claims.

10.3.1 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.

10.3.2 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 10.3.1 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.

10.4 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 10.1.5) you must restore or replace it where it can't be repaired.

10.5 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 mortgage 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.

10.6 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 10.5 requires it, you must also get our written consent to the work.

10.7 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 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.

10.8 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.

10.9 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.

10.10 Our rights to inspect, test and obtain information. We can, at any time and for any purpose, before or after the mortgage 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 10.10. For an insured mortgage, the insurer also has the rights given to us under this section 10.10.

11. Default.

11.1 When the mortgage goes into default.

If any of the events listed below occurs, the mortgage 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:

11.1.1 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.

11.1.2 Any obligation to us under the mortgage isn't complied with.

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

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

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

11.3 Action to collect. If the mortgage 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.

11.4 Possession. If the mortgage goes into default, we can take possession of anything covered by our security.

11.5 Collecting income. If the mortgage goes into default, we can collect rents or income from anything covered by our security.

11.6 Leases. If the mortgage goes into default, 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.

11.7 Sale. If the mortgage goes into default, 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.

11.8 Division. If the mortgage goes into default and 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.

11.9 Exercising your powers. If the mortgage goes into default, 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.

11.10 Becoming the holder of your interest.

11.10.1 If the mortgage 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 mortgage gives us the power to sell the thing.

11.10.2 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 7.8.

11.11 Carrying out obligations. If the mortgage goes into default, we can do any of the following:

- We can do what's needed to comply with an obligation under the mortgage 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 mortgage 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 mortgage, but we also have the rights (including security) of the holder of the property claim, and we can obtain an assignment of these rights.

11.12 Things left on the property. If the mortgage goes into default and if there is

anything on the property over which we don't have security under the mortgage, you must pay any costs we incur for handling or storing it. We can remove it from the property, or we can sell it.

11.13 Our exercising a power. When we exercise a power of ours under the mortgage, the following terms apply:

11.13.1 We can exercise the power over all or part of anything covered by our security or over any interest 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.

11.13.2 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.

11.13.3 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.

11.13.4 We can transfer or deal in any other way with every interest 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 11.

11.14 Other terms relating to our powers.

11.14.1 **Legal powers.** Where a power that the mortgage 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 mortgage without giving any notice or taking any other step.

11.14.2 **Our rights.** Our rights under the mortgage or this part 11 aren't exhaustive. We have the rights given to us by the mortgage, 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.

11.14.3 **Use of proceeds.** We'll use proceeds we receive from enforcing the mortgage first to pay or reduce costs under section 2.8. We can then use them to pay any part of the rest of what is owed and secured in whatever way we decide.

11.14.4 **Effect of our obtaining a judgment.** If we obtain a court judgment, it doesn't supersede or impair any right of ours under the mortgage. We continue to be entitled to interest on what is owed, calculated and payable under the terms of the mortgage.

11.15 Protection of persons who deal with us.

When we sell, give a lease, collect income, exercise a right, or do anything else under the mortgage, the following terms apply:

11.15.1 A person dealing with us and any person taking title through that person can assume without inquiry that the transaction is legal, that the mortgage 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.

11.15.2 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.

11.15.3 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 mortgage. 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 section 12.9.

12. Other terms.

12.1 **Effect of the mortgage.** Our preparing or accepting the mortgage doesn't put us under an obligation to lend; our lending under the mortgage doesn't put us under an obligation to lend more; and neither adds to any obligation we may have. The mortgage and our security take effect when the mortgage 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.

12.2 Effect of the law or another transaction, including a commitment letter.

The mortgage adds to any other right of ours. Nothing in the mortgage 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 mortgage. If there is a conflict between the mortgage 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.

12.3 **Effect of your selling or dealing with the property.** Subject to section 5.5.3, if you sell or deal in any other way with the property or part of it, that doesn't change a liability of yours under the mortgage, and our rights against you or anyone else or the property aren't impaired. Nothing that we do in connection with a sale or dealing impairs our rights. This includes our approving an assumption, having a person who receives the transfer agrees with us to comply with the mortgage, or having a person give us a guarantee.

12.4 **Effect of a subdivision of the property.** If any of the property is divided into a lot, condominium unit or other part, every part of the property secures all of what is owed. This applies whether the division exists when the mortgage is entered into, or takes place after then. What is owed can't be split among parts of the property. You don't have a right to a discharge of a part of the property in return for paying part of what is owed.

12.5 **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 5.5.3, 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 mortgage.

12.6 **Effect of our delay or of our waiving rights.** If we delay enforcing a right of ours under the mortgage or any other agreement, if we waive a right, or if we don't exercise the right, we don't lose or impair that right or any other right. If we waive a breach of any obligation of yours under the mortgage or any other agreement, we don't lose a right of ours for a continuing, other or future breach of that obligation or any other right.

12.7 **Your liability.** Where more than one of you is liable for an obligation under the mortgage, both or all of you are jointly and severally liable (which means you're liable individually and together).

12.8 Invalid or unenforceable terms. If any of the terms of the mortgage is or becomes invalid or unenforceable, that doesn't make the mortgage or other terms invalid or unenforceable.

12.9 Our protection.

12.9.1 Even if our security gives us the benefit of a right of yours, we aren't bound to exercise that right, to comply with an obligation as to it or to protect your right. If we are or become liable under our security for an obligation of yours to anyone else, you must pay any loss we suffer caused by a claim against us. Our security doesn't relieve you from your obligations. Where we exercise a right over something covered by our security, without taking possession of the thing, we aren't in possession of that thing. The right or exercise doesn't mean that we have an obligation to you or anyone else based on possession, management or control of anything covered by our security. We need only account for amounts we actually receive under the right.

12.9.2 Nothing we do relating to the mortgage puts us under a duty of care towards you. You should not rely, for example, on our making the loan as showing the value of the property, on our requiring insurance as showing that it's appropriate, or on an inspection as showing that the property is without defect.

12.9.3 We aren't liable for loss caused by our enforcing the mortgage or exercising a right under the mortgage, unless the loss was caused by our wilful neglect or default. If we become liable to anyone else through our enforcing the mortgage or exercising a right under the mortgage, you must pay any loss we suffer caused by a claim against us, unless the loss was caused by our wilful neglect or default.

12.10 Notices or other communications.

12.10.1 *How we can give a notice or communication.* Where the mortgage requires or allows us to give a notice to, or to communicate in any other way with, any person (including you), we can give the notice or communicate in any of the following ways, as we choose:

- We can mail it by prepaid mail addressed to the person at the person's mailing address shown in our records, by ordinary, registered or other mail.
- We can leave it at the person's address shown in our records, or on any part of the property, with an adult person there or in a place where it should reasonably be seen.
- We can advertise it in a newspaper published or generally read in the area where any part of the property is situated.
- We can provide it in an electronic form (including fax) to any person. You and every other party to the mortgage consent to our providing it in this way.

12.10.2 When received.

- A notice or communication mailed as set out above is regarded as received on the third business day after it was mailed, whether the person actually receives it or not.
- A notice or communication left or advertised as set out above is regarded as received when it's so left or published.
- A notice or communication sent by electronic form (including fax) on a business day and before 3 p.m. in the place from which it's sent is regarded as received on that day. After 3 p.m., it's regarded as received on the next business day after it was sent.

A business day is any day other than a Saturday, Sunday or public holiday in the jurisdiction in which the property is located.

12.10.3 *Addressee.* A notice or communication is valid even though it isn't addressed to anyone by name or description. It's also valid even though the person affected by it isn't known, hasn't been identified or is under a disability.

12.10.4 *Who is entitled to a notice or communication.* Where the mortgage requires or allows us to give a notice to you or communicate with you in any other way, the notice or communication is valid if we give or make it to a person then shown by our records to be an owner of the property or of the interest in the property that's covered by our security. Where there is more than one owner, the notice or communication is valid if we give or make it to either or any of them.

12.11 **We can transfer the mortgage.** The mortgage 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.

12.12 Changes to the mortgage.

12.12.1 *Terms of a later agreement.* When you and we agree to make a change to the mortgage, this section 12.12 and section 12.13 apply to that agreement. We can choose to have the agreement not take effect until you've complied with this section 12.12.

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

12.12.1.2 *Security.* We must be satisfied that our security covers the change. If we ask, the agreement making the change must be registered. If anyone else has acquired a right in the property and we ask, you must have the right postponed to our security.

12.12.1.3 *Costs.* You must also pay us our costs for the change, including the usual administration fee that we charge at the time (see section 2.8).

12.12.2 *Effect of a later agreement.*

12.12.2.1 An agreement changing the mortgage doesn't pay off the loan or make the loan into a new loan, but merely changes the terms of the mortgage (and there's no novation). The changes become part of the mortgage. For example, the loan continues even if it has a different type of mortgage product. Except where the agreement provides otherwise, the terms of the mortgage continue and apply to the loan as changed, and all security secures the loan as changed. If interest that's owing is treated as part of the loan under the agreement, that doesn't impair our priority. The agreement adds to our rights and doesn't take away or lessen a right that we have and we reserve those rights.

12.12.2.2 Where the agreement extends the term of the loan, it changes the date of the mortgage to the effective date of the agreement. This means that, if section 10 of the Canada *Interest Act* or a similar 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 the new date. Section 10 of the Canada *Interest Act* and similar laws don't apply to a mortgage given by a corporation.

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

12.13.1 In this section 12.13, 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 12.13, "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.

12.13.2 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.

12.13.3 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.

12.13.4 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.

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

12.14 **Power of attorney.** Where under the mortgage you give us a power to do something, you irrevocably appoint us as your attorney to do the thing. Where under the mortgage you appoint us as your attorney to do something, you also irrevocably appoint anyone we authorize as your attorney for the same purpose.

12.15 **Further actions.** When we ask, you must complete documents, or take other actions, that we think are necessary or desirable to carry out the mortgage and its intent, and you must pay your and our costs for that. When you are to give us security, you must do so in the same way as the mortgage gives us security.

12.16 **Law.** The mortgage is governed by the law of the jurisdiction in which the property is located, including the federal law in force in that jurisdiction.

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

13. **Guarantee.**

13.1 **Definitions.** This part 13 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**.

13.2 **Your guarantee.** You unconditionally guarantee to us that all of what is owed, being all of the amounts listed in section 2.1, will be paid, and you guarantee that all of the other obligations of the borrower (or every borrower, if there is more than one) under the mortgage will be complied with. You agree that if any amount in section 2.1 isn't paid, you will pay it. Your guarantee continues even if the borrower becomes bankrupt or insolvent, or is discharged in a bankruptcy or other proceeding. A limit on the amount secured by the security doesn't limit your guarantee.

13.3 **Your liability.** Your guarantee also makes you liable as if you were the borrower. This section 13.3 doesn't impair our other rights under this part 13.

13.4 Defects in borrower's obligations. If we act on the basis that an obligation that you've guaranteed exists and anything causes it not to exist, this part applies as if the obligation had existed. This applies to the following, for example:

- A borrower lacks power to enter into an obligation, doesn't have authority to exercise a power or doesn't exercise the power properly.
- Anyone purporting to act on behalf of a borrower lacks authority or is fraudulent.

This section 13.4 applies even if we didn't inquire about these things or we were negligent, but it doesn't apply if we actually knew the obligation did not exist.

13.5 Effect of dealings. A dealing by us or failure by us to deal with a borrower or anyone else, or with any right or security, doesn't release you or impair your liability. This is so even if you don't know of or consent to the dealing, however we act, and even if we're unwilling to act, we receive nothing in return, we don't take care, or we're at fault in any other way. If the dealing changes or replaces what is owed, your guarantee applies to the changed obligation or replacement. Some examples are:

- We give more time to comply with what you guarantee, or we give any other waiver.
- We agree to change or replace what is owed.
- We release any person from a liability, even if the person is another guarantor with whom you were jointly and severally liable.
- We release a security, or all or part of the property from the mortgage or other security.
- We don't have, protect or take the benefit of a right against anyone, or under a security.
- We accept a part payment or any other settlement of what you guarantee.
- We agree to change a security, or an obligation of another person
- We renew the loan, even if other terms are changed (for example, the interest rate is increased or the amortization period is lowered).
- Subject to section 5.5.3, we approve a new owner of the property or deal with a new owner after a transfer of the property (for example, we renew the loan).
- We take other rights such as security or a guarantee.
- If a borrower is a corporation and the corporation is changed or amalgamated, your guarantee covers what is owed by the changed or amalgamated corporation.

Our rights against you aren't impaired if the borrower sells or deals in any other way with the property or part of it.

13.6 Enforcing the guarantee. Until we've received all of what is owed, you don't have a right to be subrogated to any of our rights, that is, you cannot take the benefit of any of our rights. We can enforce your guarantee before

we enforce our rights against the borrower or anyone else, or under any security. You must pay us our costs for enforcing the guarantee.

13.7 Other terms. You agree to the following terms.

- Your guarantee continues until we release you from it in writing.
- Where more than one person has a liability under this part 13, both or all of them are jointly and severally liable (which means that they're liable individually and together).
- You agree to the terms of section 12.13 as if you were the borrower.
- No information or promise that we may have given to you affects your liability under your guarantee.
- Your guarantee adds to any other guarantee or security we may have or receive.
- Although you agree to this document as a guarantor, your guarantee is a separate agreement between you and us; it's not part of the agreement between the borrower and us.
- Your guarantee binds an heir, executor, administrator or similar representative of yours and a successor of yours. Your guarantee benefits a successor or assignee of ours, even if you weren't told about the successor or assignee.
- You agree that we would not have entered into the mortgage without the guarantee.



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Residential Mortgage Alberta

Land Titles Act Standard Form Mortgage

Filed with Registrar of Titles for Land Titles Office for: **Identifying number:**
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General Terms

By entering into the mortgage with us, you promise to repay a loan and you give us security over property. The security gives us a right to have the property used to pay what is owed.

The mortgage includes these **General Terms**.

The General Terms show:

- How you must pay the loan and what costs and taxes you must pay.
- What features apply.
- Your other responsibilities, especially for the property. For example, you must insure, repair and pay taxes on the property and comply with laws.

- Our rights if you don't comply with the mortgage.
- If you're guaranteeing the mortgage, what this means.

In the mortgage, **you** means each person giving security under the mortgage (except in part 13 of the General Terms). **We** means each person receiving the security.

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1. Definitions.

This part explains the meaning of some words in the mortgage.

- 1.1 **Advance.** Where the mortgage says we make an advance to you, it includes our making an advance to anyone you direct.
- 1.2 **Amortization period.**
 - 1.2.1 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 mortgage uses the following amortization periods:

- 1.2.1.1 **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.
- 1.2.1.2 **Remaining contractual amortization period for the mortgage.** At any time, this is the amortization period that was agreed to for the mortgage, less the period since the interest adjustment date.
- 1.2.1.3 **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.

1.3 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."

1.4 Blended interest rate. This is an interest rate that we work out when we make a new loan under section 5.11.1.2 or 5.12. 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.

1.5 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.

1.6 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".

1.7 Closed term. See section 1.20, **Open or closed term.**

1.8 Compound interest. This is interest on unpaid interest.

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

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

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

1.12 Interest adjustment date. The first term of the loan under the mortgage 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 the first 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.

1.13 Interest rate for the loan. For a fixed rate term, this is the interest rate calculated for the calculation period as shown in the mortgage. For a variable rate term, the mortgage 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 3.

1.14 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.

1.15 Loan. This is the principal amount that we advance and that the mortgage secures. It includes any advance we make under a re-borrowing.

1.16 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 mortgage, the maximum loan-to-value ratio reflects requirements of the default insurer.

1.17 Low Rate Fixed Closed Mortgage. This is an option for a fixed closed mortgage product that we offer with limited features as described in section 5.

1.18 Mortgage. The mortgage is the document that you're agreeing to that includes these General Terms. If the terms of the mortgage are changed, it means the mortgage as changed.

1.19 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.

1.20 Open or closed term. If the mortgage 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."

1.21 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.

1.22 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.

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

1.24 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."

1.25 Property.

1.25.1 The mortgage gives us security over some real property or land. We refer to this real property or land as the property. It includes all interests in the property, and all rights that go along with the property. It includes buildings and the other things that are referred to in section 7.2.

1.25.2 For a condominium, it's the unit and it includes the rights in the complex over which the mortgage gives us security. For a leasehold interest, it's the leased real property or land and it includes the tenant's interests in that real property or land.

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

- A mortgage or other security.
- A lease, a right of way or other easement or servitude, or a restrictive covenant.
- A lien 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.

1.27 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.

1.28 Property Tax or insurance payment. This is a regular payment to us for property taxes, or a regular payment to the insurer for premiums for life or disability insurance for the mortgage (if you obtain that insurance). It's in addition to the instalment.

1.29 Section or part. Where the General Terms refer to a section or part, they mean a section or part of the General Terms, unless they show otherwise.

1.30 Term of the loan. This is the period for which we make the loan to you. 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 first term of the loan under the mortgage begins on the interest adjustment date, and ends on the balance due date.

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

1.32 What is owed. This is the total of the amounts owed to us as described in section 2.1.

1.33 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.

2. What is owed and secured.

2.1 General. Under the mortgage, the following amounts are owed to us:

- Every amount that must be paid to us under the mortgage, including:
 - the loan,
 - interest,
 - compound interest and
 - costs.
- The amounts described in section 2.3.
- Amounts that, as a result of the mortgage, the law requires to be paid to us.
- Any amount needed to compensate us for a breach of your obligations under the mortgage.

Our security secures the amounts listed above and the other obligations to us under the mortgage. If we advance parts of the loan at different times, our security secures every advance. The amounts secured are subject to the limit shown in section 2.3.3.

2.2 The loan. You must repay the loan, and pay interest on it at the interest rate for the loan, in accordance with this section 2.2.

2.2.1 Interest to interest adjustment date.

You must pay the interest accrued from the day we make the advance or first 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 asking you to pay it on the 1st of each month (if we advance the loan or part of it 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.

2.2.2 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 mortgage. 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 mortgage 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.

2.2.3 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.

2.3 Other amounts that the mortgage secures. This section 2.3 describes additional amounts that the mortgage secures. In this section 2.3, **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. The terms in sections 12.12 and 12.13 apply to an agreement under this section 2.3.

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

2.3.2 Additional amounts. Whenever we lend an amount to you and you agree that the mortgage secures that amount or that the amount is lent under the mortgage, the mortgage also secures that amount and the interest on it. You'll be deemed to agree that the mortgage secures an amount:

- if it's a re-borrowing under section 5.3; or
- if, in your agreement for it, you refer to the mortgage.

2.3.3 Limit on amount secured. There's a limit on how much the mortgage secures. The limit is the principal amount of the mortgage. The limit applies only to the following parts of what is owed at any time:

- The loan that is owing under section 2.2.
- The amount that is owing of what we lent under section 2.3.2.

There's no limit on how much the mortgage 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 mortgage.

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

2.5 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.

2.6 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.

2.7 Other terms about payments.

2.7.1 All amounts are expressed in Canadian dollars and are payable in Canadian dollars.

2.7.2 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.

2.7.3 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.)

2.8 Costs.

2.8.1 Costs for the mortgage and security. Once you've agreed to enter into the mortgage with us, whether we make an advance or not, you must pay us our costs for arranging the mortgage and taking our security. These include, for example, costs for:

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

2.8.2 Other costs. You must pay us our costs for:

- Doing or paying anything that the mortgage 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; 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 mortgage 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 mortgage goes into default, and exercising our powers under the mortgage.
- Doing anything relating to the mortgage that the mortgage 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 mortgage, for example, sections 7.8, 8.11, 10.10, 11.12, 12.12.1.3 and 12.15.

2.8.3 Other cost terms. Wherever the mortgage 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.
- 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 2.8 only as far as permitted by a law that applies despite what you and we have agreed to.

3. Variable rate terms.

3.1 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 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.

3.2 Interest rates.

3.2.1 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.

3.3 Payments.

3.3.1 Instalment. Although the interest rate for a variable rate term varies, the instalment doesn't change (except under section 3.3.2). 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.

3.3.2 Effect if interest is more than the instalment. For any variable rate mortgage 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 section 5.14.2 or 5.17.2.

4. Renewal.

4.1 Renewal offer. Shortly before the balance due date, unless you're in default, we'll send you our offer to renew the loan, which will allow you to choose a mortgage product from several options. 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 mortgage. 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:

4.1.1 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.

4.1.2 If you don't have a mortgage product described in section 4.1.1, the new mortgage product is a fixed rate open term of six months.

5. Features.

5.1 What features apply.

5.1.1 The heading for each section of this part 5 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.

5.1.2 This part 5 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.

5.1.3 If the mortgage is in default, you can't use any of the features in this part 5.

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

5.2.1 **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).

5.2.2 **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

5.2.1. 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.

5.2.3 **How we make the change.** When we change the way you pay the instalments under section 5.2.1 or 5.2.2, the terms of section 5.20 apply.

5.2.4 **Instalments after default.** If the mortgage 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 5.2.4, you can't change the way you pay the instalments under section 5.2.1 or 5.2.2. Nothing in this section 5.2.4, and nothing we do under this section 5.2.4, impairs

any other right of ours under the mortgage. For example, all of what is owed must still, if we choose, be paid immediately.

5.2.5 **Property Tax or 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.

5.3 Any type of mortgage product except a Low Rate Fixed Closed Mortgage: Re-borrowing.

5.3.1 **How much you can re-borrow.** Subject to section 5.3.3, if you've previously prepaid, you may be able to re-borrow on the terms in section 5.3.4.

5.3.1.1 To work out what you can re-borrow:

- First we determine your start date and your initial loan balance, and section 5.3.2 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.

5.3.1.2 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).

5.3.1.3 Some transactions reduce what you can re-borrow. For example, if you've skipped an instalment under section 5.4, that will lower what you can re-borrow.

5.3.2 **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 the mortgage with us, your start date is the interest adjustment date, and your initial loan balance is the principal amount shown in the mortgage.
- If you assumed the mortgage by taking a transfer of the property subject to the mortgage, your start date is the date of transfer, and your initial loan balance is the loan balance on your start date.

5.3.3 **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 mortgage with you.
- You're re-borrowing to avoid having the mortgage 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 mortgage is in default, or has gone into default during the last 90 days.
- You have a multi-unit residential mortgage with more than four units.
- You have a default insured mortgage, unless the re-borrowing is permitted by the default insurer.

5.3.4 **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, the 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 effect.
- You don't have to pay us a prepayment charge.
- The terms of section 5.20 apply to this change.

5.4 **Any type of mortgage product except a Low Rate Fixed Closed Mortgage: *Family Care*® and *Take a Break*®.**

5.4.1 **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 5.3, that may lower how many instalments you can skip.

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

5.4.2.1 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.

5.4.2.2 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.

5.4.3 **Terms for skipping instalments.**

5.4.3.1 If the mortgage isn't a default insured mortgage:

- 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 5.3.2.
- 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).

5.4.3.2 If the mortgage is a default insured mortgage, the instalments you can skip can't be more than what you can re-borrow under section 5.3.1. 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.

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

5.4.3.4 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.

5.4.3.5 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.

5.4.3.6 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.

5.4.3.7 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.

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

5.4.3.9 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.

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

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

5.4.3.12 The terms of section 5.20 apply to this change.

5.4.4 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 5.10.1 or 5.18.1 (where you have that option). 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.

5.5 Any type of mortgage product: Transfer.

5.5.1 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 your interest in the property. Where more than one person holds the interest, there's a transfer of the interest when there's a transfer by any person.

5.5.2 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 mortgage. 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 mortgage.

5.5.3 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 mortgage under section 5.5.2 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 5.5.2 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 mortgage under section 5.5.2, or

any of our other rights under the mortgage (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.

5.5.4 Portability. If you consent to our dealing with a person who wants to assume the mortgage under section 5.5.2, you give up your option in section 5.11.

5.6 Fixed rate open term: Increasing the instalment.

5.6.1 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.

5.6.2 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 mortgage when you and we enter into the agreement to make the change.

5.6.3 How we make the change. When we increase or lower the instalment under this section 5.6, the terms of section 5.20 apply.

5.7 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.

5.8 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 5.20 apply to this change.

5.9 Fixed rate closed term: *Increasing the instalment.*

5.9.1 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 Low Rate 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.

5.9.2 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 mortgage when you and we enter into the agreement to make the change.

5.9.3 How we make the change. When we increase or lower the instalment under this section 5.9, the terms of section 5.20 apply.

5.10 Fixed rate closed term: *Prepaying.*

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

- The total of what you prepay under this section 5.10.1 in any calendar year cannot be more than:
 - 10% of the original amount of the loan, if you have a Low Rate Fixed Closed Mortgage; or
 - 20% of the original amount of the loan, if you have 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 5.10.1 if you've obtained a payout statement and it hasn't expired or been cancelled.

5.10.2 Your option to prepay with a prepayment charge. Except for a Low Rate Fixed Closed Mortgage, at any time during the term of the loan, in addition to your option to prepay under section 5.10.1 (where you have that option), you can prepay all or part of what is owed as follows:

5.10.2.1 Except as shown in section 5.10.2.2, 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 prepayment charge based on different interest rates under section 5.21.1.

5.10.2.2 If the term of the loan is longer than five years and you prepay all or part of what is owed after the fifth year of the term of the loan, the prepayment charge is three months' interest on the amount that you're prepaying.

5.10.2.3 You don't have to tell us in advance that you want to prepay. See also section 5.21.1.4.

5.10.3 For a Low Rate 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 5.10.2.1 or 5.10.2.2.

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

5.11.1 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.

5.11.1.1 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.

5.11.1.2 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 1.4).

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.

5.11.2 Repaying the old loan. When we make a new loan under this section 5.11, 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 mortgage.

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

5.12.1 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 1.4).

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.

5.12.2 Repaying the old loan. When we make a new loan under this section 5.12, you must repay all of what is owed at that time on the old loan (including amounts that haven't become due).

5.13 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 5.20 apply to this change.

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

5.14.1 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.

5.14.2 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 mortgage when you

and we enter into the agreement to make the change.

5.14.3 How we make the change. When we increase or lower the instalment under this section 5.14, the terms of section 5.20 apply.

5.15 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.

5.16 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.

You don't have to pay us a prepayment charge. The terms of section 5.20 apply to this change.

5.17 Variable rate closed term: *Increasing the instalment.*

5.17.1 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.

5.17.2 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.

5.17.3 How we make the change. When we increase or lower the instalment under this section 5.17, the terms of section 5.20 apply.

5.18 Variable rate closed term: Prepaying

5.18.1 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 5.18.1 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 5.18.1 if you've obtained a payout statement and it hasn't expired or been cancelled.

5.18.2 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 5.18.1 (where you have that option), 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. See also section 5.21.1.4. You don't have to tell us in advance that you want to prepay.

5.19 Variable rate closed term: Conversion.

5.19.1 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 5.20 apply to this change.

5.20 Changes generally.

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

5.20.2 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.

5.20.3 Requirements of others. Sometimes the loan may involve another person, for example, the insurer of an insured mortgage. 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).

5.20.4 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.

5.20.5 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.

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

5.20.7 How often you pay a new instalment. Except for a change under section 5.2.1 or 5.2.2, a new instalment after a change will be paid as often as just before a change.

5.20.8 Payment of instalments after you prepay. After you prepay part of what is owed under section 5.7, 5.10, 5.15 or 5.18, the amount of the instalment doesn't change.

5.20.9 General terms. Sections 12.12 and 12.13 apply to an agreement under this section 5.20.

5.21 Prepayment charge.

5.21.1 How we work out a prepayment charge based on different interest rates.

5.21.1.1 General. When we base the prepayment charge on different interest rates under section 5.10.2, we work out the prepayment charge using the two interest rates described below. (For this reason, this prepayment charge is also known as the "interest rate differential.") If the first interest rate is more than the second, this prepayment charge is the interest, at a rate equal to the difference between the two interest rates, on the amount that you're prepaying, from when you prepay to the end of the term of the loan. If the second interest rate is more than the first, there's no

prepayment charge based on different interest rates, but there will be a prepayment charge of three months' interest (unless it's reduced under section 5.21.1.4).

5.21.1.2 **First interest rate.** This is your existing interest rate when you prepay.

5.21.1.3 **Second interest rate.** We work out the second interest rate 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 Your existing interest rate may reflect a discount. To check this, we start with our posted interest rate for your existing mortgage product when we made the advance or first advance. We compare it with your existing interest rate. If the first is more than the second, the difference is the discount.

C If there's a discount under B, the second interest rate is the interest rate under A less the discount under B.

Sometimes we work out the second interest rate to take into account any discount you received on either an old loan or the existing loan, or any increase to the interest rate of an old loan that you agreed to instead of paying us a prepayment charge. This is so where you've carried terms of a fixed rate closed term loan to the existing loan without having to pay a prepayment charge. It's so even if:

- you re-borrowed or we made a higher loan, for example, under section 5.3 or 5.12;
- the new loan is secured by a property you bought, for example, under section 5.11; or
- you carried the terms more than once.

5.21.1.4 **Prepayment near the balance due date.** If, 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.

6. Multi-unit and non-residential property.

6.1 **When this part applies.** This part 6 applies to a mortgage where, when the mortgage is entered into, any one or more of the following conditions is met:

- The property contains, or is to contain, five or more dwelling units.
- A dwelling unit hasn't been built on the property. However, this paragraph doesn't apply where we intend advances under the mortgage to be used for building a dwelling unit or dwelling units on the property and the person who has the right to receive the

advances is to live in it or at least one of them.

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

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

6.2 **Renewal.** Part 4 doesn't apply to the mortgage if this part 6 applies to the mortgage.

6.3 **Features generally.** Except as shown in sections 6.4 and 6.6, part 5 doesn't apply to the mortgage if this part 6 applies to the mortgage.

6.4 **Transfer.** If this part 6 applies to the mortgage, sections 5.5.1 and 5.5.2 apply.

6.5 **Prepaying under a fixed rate closed term.** If this part 6 applies to the mortgage, you have a fixed rate closed term, the term of the loan is longer than five years, and the mortgage wasn't given by a corporation, you can prepay all or part of what is owed at any time after the fifth year of the term of the loan, 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 6.5 applies to the mortgage 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.

6.6 **Prepaying under a fixed rate open or variable rate term.** If this part 6 applies to the mortgage and you have a fixed rate open term, section 5.7 applies. If this part 6 applies to the mortgage and you have a variable rate open term, section 5.15 applies.

6.7 **Default.** If the mortgage is in default, you can't prepay under section 6.5 or 6.6.

7. Our security.

7.1 **You give us security.** Except where you have a leasehold interest in the property, you transfer the property to and to the use of us and our successors; you mortgage and charge the property to us; and you release all your claims on the property to us. We return the property to you when we discharge the security under section 7.8.

7.2 **What's included in the property.** The property includes fixtures on it when or after the mortgage is entered into. Without limiting this, you give us security over the things on the property that are listed below, and you agree that they are fixtures:

- Buildings, equipment, other structures, decks, fences or other improvements.
- A structure that's being used like a building, even if the structure is mobile or designed to be made mobile, or was wholly or partly made before being placed on the property.

- Equipment for heating, ventilating or air-conditioning, for example a furnace or air-conditioner.
- Equipment for supplying electricity, gas, hot or cold water or communications.
- Lighting equipment, including bulbs and tubes.
- Window or door screens; storm doors and windows; and window blinds, shutters and awnings.
- Antennas and similar equipment.
- Fire alarm systems and security systems.
- Driveway and sidewalk paving stones.
- Floor coverings, wall-to-wall carpets and fixed mirrors.
- Built-in appliances such as a stove or dishwasher.
- Where you rent out the property, an appliance usually provided by the landlord to a tenant in the property, such as a stove or refrigerator (and you must not, without our prior written consent, remove the appliance).

7.3 Other rights. You assign all of the following rights to us, whether they exist when or after the mortgage is entered into:

- The rights under every insurance policy covering loss of or damage to the property.
- The rights under every insurance policy covering loss of present or future income, rents or profits from the property.
- A right under a trust or other agreement relating to an insurance policy that covers loss of or damage to any part of the property, or loss of present or future income, rents or profits from the property.
- Every right of yours as landlord under a lease or tenancy of the property or part of it.
- Every right of yours as landlord to rent and other amounts payable under a lease or tenancy of the property or part of it.
- The related rights for the lease or tenancy, including a guarantee or indemnity, a security and a right to insurance.
- A right under a property claim, except a leasehold interest in the property.
- A right to repayment of a property tax.
- A right to have anyone fix a defect in the property or pay any loss you may suffer because of a defect, for example, a warranty on a new home.
- A right to a supply of services or materials for work or relating to work.
- The proceeds of the above rights.

This section 7.3 doesn't authorize you to enter into a lease or tenancy. Nor does it give the tenant priority over our security or create a relationship of landlord and tenant between a tenant and us.

7.4 Nature of security. Our security continues until we discharge it under section 7.8. Our security isn't affected by a payment reducing the balance to zero.

7.5 Registration. You irrevocably authorize us, and anyone we authorize, to enter into and

register for you an electronic document needed to register the mortgage.

7.6 Our priority. Our security has priority for what is owed over every interest in the property created in favour of another person after the mortgage 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 mortgage 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.

7.7 Title obligations.

7.7.1 Your ownership. You promise that you own the property with a good title to it in fee simple free from any property claim or defect and that the title cannot be defeated. You promise that all property taxes that have become due have been paid.

7.7.2 Your power to give security. You promise that you have the right, power and authority to mortgage the property to us.

7.7.3 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 mortgage. You promise that, if we're entitled under the mortgage to possess or enjoy the property, we'll have quiet possession or enjoyment of it free from property claims.

7.7.4 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.

7.7.5 Property claims we accept. We accept that our security is subject to a property claim that exists when the mortgage is entered into, but only if we've signed a written consent to our security being subject to it, or it's described in the mortgage.

7.8 Discharge. 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 mortgage, 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 7.8 requires. These include the usual administration fee that we charge at the time and any registration fee we pay.

8. Further terms for a condominium.

8.1 Definitions. In this part 8:

- **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.

8.2 How this part applies. This part 8 applies where the property is a unit. All of the other terms of the mortgage apply, except where this part 8 says they don't apply.

8.3 Our security. Where section 7.1 or part 9 refers to the **property**, it means the unit. Section 7.1 or part 9 also applies to the rights in the complex that, under condominium law or the condominium rules, go along with the unit.

8.4 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 mortgage is entered into, and you irrevocably appoint us your attorney to exercise them. 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.

8.5 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.

8.6 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 8.6 even if we wouldn't have been able to exercise your right to vote. None of our rights under the mortgage is impaired because we voted for or consented to anything, or gave you instructions to do so.

8.7 Insurance. We have the rights as to insurance under sections 7.3 and 10.1 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.

8.8 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 10.1.5) restore or replace it where it can't be repaired.

8.9 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.

8.10 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.

8.11 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.

8.12 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.

9. Further terms for leasehold property.

9.1 Where and how this part applies.

9.1.1 Where you have a leasehold interest in the property, you give us security in the ways set out in this part 9, and we don't have to comply with your obligations under your lease. Lease means your lease as it may have been or be amended or replaced.

9.1.2 All terms of the mortgage apply where you have a leasehold interest in the property, except sections 7.1 and 7.7, and except where they say that they don't apply in sections 7.3 and 8.4.

9.2 Our security over the leasehold interest.

9.2.1 You give us security over the leasehold interest in the following ways:

9.2.1.1 You mortgage or charge the leasehold interest to us, except where the effect of doing so would be to assign the leasehold interest to us.

9.2.1.2 Where the effect of your mortgaging or charging the leasehold interest to us would be to assign the leasehold interest to us:

- You sublease the property to us for the rest of the term of the lease, except the last day of the term.
- You must hold the leasehold interest in trust for us, and dispose of or deal with the leasehold interest as we choose. At any time, we can appoint anyone as a trustee in your place, and use every

power that the law gives to a person who appoints a trustee in order to transfer the leasehold interest to this trustee.

9.2.2 Where part 11 refers to anything covered by our security, it includes the leasehold interest. For example, if the mortgage goes into default, we can sell, dispose of or become the holder of the leasehold interest or the sublease under section 9.2.1.2. We can do whatever is needed under this part 9 to give effect to this.

9.3 **Our security over other rights.** You transfer to us every right of the tenant under the lease other than the leasehold interest. For example, you transfer to us the benefit of any option to renew the lease or any option to purchase the property.

9.4 Title obligations.

9.4.1 *The leasehold interest.* You give us the following promises:

- You hold the leasehold interest with a good leasehold title free from any property claim 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 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.

9.4.2 *Your power to give security.* You promise that you have the right, power and authority (including any required approval or consent) to give us security over the leasehold interest, and over every other right of the tenant under the lease, in the ways shown in this part 9.

9.4.3 *Other promises.* You promise to protect your title to the leasehold interest and every other right of the tenant under the lease. You promise that 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 mortgage. You promise that, while we're entitled under the mortgage to possess or enjoy the property, we'll have quiet possession or enjoyment of it free from property claims.

9.4.4 *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.

9.4.5 *Property claims we accept.* We accept that our security is subject to the lease, and we accept that our security is subject to a property claim, only if we've signed a written consent to

our security being subject to it or it's described in the mortgage.

9.5 Responsibilities for the lease.

9.5.1 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 9.5.1 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.

9.5.2 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.

9.6 **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 under section 9.2.1.2, our sublease is extended for the rest of the extended term of the lease, except the last day of that term.

9.7 **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.

9.8 **Power of attorney to us.** You irrevocably appoint us as your attorney to do for you everything that this part 9 requires you to do.

10. Other responsibilities.

10.1 Insurance.

10.1.1 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 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.

10.1.2 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.

10.1.3 **Other requirements.** All insurance under the mortgage 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.

10.1.4 **Your other obligations.** You must promptly pay the premiums for all insurance required under the mortgage. 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 never expires, 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.

10.1.5 **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.

10.1.6 **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.

10.1.7 **Our right to insure.** If you don't comply with any of your obligations under this section 10.1, we can arrange any insurance that we choose in order to protect our security.

10.2 Property taxes.

10.2.1 **Generally.** Except where we pay property taxes under section 10.2.2, you must pay all property taxes when they're due. We can choose not to collect regular payments of property taxes under section 10.2.2. When we choose not to collect regular payments, we can later choose to collect them.

10.2.2 *You're paying property taxes by regular payments.*

10.2.2.1 **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.

10.2.2.2 **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.

10.2.2.3 **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.

10.2.2.4 **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 mortgage 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.

10.2.2.5 **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.

10.3 Property claims.

10.3.1 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.

10.3.2 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 10.3.1 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.

10.4 **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 10.1.5) you must restore or replace it where it can't be repaired.

10.5 **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 mortgage 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.

10.6 **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 10.5 requires it, you must also get our written consent to the work.

10.7 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 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.

10.8 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.

10.9 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.

10.10 Our rights to inspect, test and obtain information. We can, at any time and for any purpose, before or after the mortgage 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 10.10. For an insured mortgage, the insurer also has the rights given to us under this section 10.10.

11. Default.

11.1 When the mortgage goes into default. If any of the events listed below occurs, the mortgage 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:

- 11.1.1 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.

11.1.2 Any obligation to us under the mortgage isn't complied with.

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

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

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

11.3 Action to collect. If the mortgage 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.

11.4 Possession. If the mortgage goes into default, we can take possession of anything covered by our security.

11.5 Collecting income. If the mortgage goes into default, we can collect rents or income from anything covered by our security.

11.6 Leases. If the mortgage goes into default, 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.

11.7 Sale. If the mortgage goes into default, 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.

11.8 Division. If the mortgage goes into default and 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.

11.9 Exercising your powers. If the mortgage goes into default, 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.

11.10 Becoming the holder of your interest.

11.10.1 If the mortgage 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 mortgage gives us the power to sell the thing.

11.10.2 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 7.8.

11.11 **Carrying out obligations.** If the mortgage goes into default, we can do any of the following:

- We can do what's needed to comply with an obligation under the mortgage 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 mortgage 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 mortgage, but we also have the rights (including security) of the holder of the property claim, and we can obtain an assignment of these rights.

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

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

11.13.1 We can exercise the power over all or part of anything covered by our security or over any interest 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.

11.13.2 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.

11.13.3 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.

11.13.4 We can transfer or deal in any other way with every interest 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 11.

11.14 **Other terms relating to our powers.**

11.14.1 **Legal powers.** Where a power that the mortgage 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 mortgage without giving any notice or taking any other step.

11.14.2 **Our rights.** Our rights under the mortgage or this part 11 aren't exhaustive. We have the rights given to us by the mortgage, 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.

11.14.3 **Use of proceeds.** We'll use proceeds we receive from enforcing the mortgage first to pay or reduce costs under section 2.8. We can then use them to pay any part of the rest of what is owed and secured in whatever way we decide.

11.14.4 **Effect of our obtaining a judgment.** If we obtain a court judgment, it doesn't supersede or impair any right of ours under the mortgage. We continue to be entitled to interest on what is owed, calculated and payable under the terms of the mortgage.

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

11.15.1 A person dealing with us and any person taking title through that person can assume without inquiry that the transaction is legal, that the mortgage 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.

11.15.2 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.

11.15.3 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 mortgage. 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 section 12.9.

12. Other terms.

12.1 Effect of the mortgage. Our preparing or accepting the mortgage doesn't put us under an obligation to lend; our lending under the mortgage doesn't put us under an obligation to lend more; and neither adds to any obligation we may have. The mortgage and our security take effect when the mortgage 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.

12.2 Effect of the law or another transaction, including a commitment letter. The mortgage adds to any other right of ours. Nothing in the mortgage 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 mortgage. If there is a conflict between the mortgage 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.

12.3 Effect of your selling or dealing with the property. Subject to section 5.5.3, if you sell or deal in any other way with the property or part of it, that doesn't change a liability of yours under the mortgage, and our rights against you or anyone else or the property aren't impaired. Nothing that we do in connection with a sale or dealing impairs our rights. This includes our approving an assumption, having a person who receives the transfer agree with us to comply with the mortgage, or having a person give us a guarantee.

12.4 Effect of a subdivision of the property. If any of the property is divided into a lot,

condominium unit or other part, every part of the property secures all of what is owed. This applies whether the division exists when the mortgage is entered into, or takes place after then. What is owed can't be split among parts of the property. You don't have a right to a discharge of a part of the property in return for paying part of what is owed.

12.5 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 5.5.3, 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 mortgage.

12.6 Effect of our delay or of our waiving rights. If we delay enforcing a right of ours under the mortgage or any other agreement, if we waive a right, or if we don't exercise the right, we don't lose or impair that right or any other right. If we waive a breach of any obligation of yours under the mortgage or any other agreement, we don't lose a right of ours for a continuing, other or future breach of that obligation or any other right.

12.7 Your liability. Where more than one of you is liable for an obligation under the mortgage, both or all of you are jointly and severally liable (which means you're liable individually and together).

12.8 Invalid or unenforceable terms. If any of the terms of the mortgage is or becomes invalid or unenforceable, that doesn't make the mortgage or other terms invalid or unenforceable.

12.9 Our protection.

12.9.1 Even if our security gives us the benefit of a right of yours, we aren't bound to exercise that right, to comply with an obligation as to it or to protect your right. If we are or become liable under our security for an obligation of yours to anyone else, you must pay any loss we suffer caused by a claim against us. Our security doesn't relieve you from your obligations. Where we exercise a right over something covered by our security, without taking possession of the thing, we aren't in possession of that thing. The right or exercise doesn't mean that we have an obligation to you or anyone else based on possession, management or control of anything covered by our security. We need only account for amounts we actually receive under the right.

12.9.2 Nothing we do relating to the mortgage puts us under a duty of care towards you. You should not rely, for example, on our making the loan as showing the value of the property, on our requiring insurance as showing that it's appropriate, or on an

inspection as showing that the property is without defect.

12.9.3 We aren't liable for loss caused by our enforcing the mortgage or exercising a right under the mortgage, unless the loss was caused by our wilful neglect or default. If we become liable to anyone else through our enforcing the mortgage or exercising a right under the mortgage, you must pay any loss we suffer caused by a claim against us, unless the loss was caused by our wilful neglect or default.

12.10 Notices or other communications.

12.10.1 *How we can give a notice or communication.* Where the mortgage requires or allows us to give a notice to, or to communicate in any other way with, any person (including you), we can give the notice or communicate in any of the following ways, as we choose:

- We can mail it by prepaid mail addressed to the person at the person's mailing address shown in our records, by ordinary, registered or other mail.
- We can leave it at the person's address shown in our records, or on any part of the property, with an adult person there or in a place where it should reasonably be seen.
- We can advertise it in a newspaper published or generally read in the area where any part of the property is situated.
- We can provide it in an electronic form (including fax) to any person. You and every other party to the mortgage consent to our providing it in this way.

12.10.2 *When received.*

- A notice or communication mailed as set out above is regarded as received on the third business day after it was mailed, whether the person actually receives it or not.
- A notice or communication left or advertised as set out above is regarded as received when it's so left or published.
- A notice or communication sent by electronic form (including fax) on a business day and before 3 p.m. in the place from which it's sent is regarded as received on that day. After 3 p.m., it's regarded as received on the next business day after it was sent.

A business day is any day other than a Saturday, Sunday or public holiday in the jurisdiction in which the property is located.

12.10.3 *Addressee.* A notice or communication is valid even though it isn't addressed to anyone by name or description. It's also valid even though the person affected by it isn't known, hasn't been identified or is under a disability.

12.10.4 *Who is entitled to a notice or communication.* Where the mortgage requires or allows us to give a notice to you or communicate with you in any other way, the

notice or communication is valid if we give or make it to a person then shown by our records to be an owner of the property or of the interest in the property that's covered by our security. Where there is more than one owner, the notice or communication is valid if we give or make it to either or any of them.

12.11 **We can transfer the mortgage.** The mortgage 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.

12.12 **Changes to the mortgage.**

12.12.1 *Terms of a later agreement.* When you and we agree to make a change to the mortgage, this section 12.12 and section 12.13 apply to that agreement. We can choose to have the agreement not take effect until you've complied with this section 12.12.

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

12.12.1.2 *Security.* We must be satisfied that our security covers the change. If we ask, the agreement making the change must be registered. If anyone else has acquired a right in the property and we ask, you must have the right postponed to our security.

12.12.1.3 *Costs.* You must also pay us our costs for the change, including the usual administration fee that we charge at the time (see section 2.8).

12.12.2 *Effect of a later agreement.*

12.12.2.1 An agreement changing the mortgage doesn't pay off the loan or make the loan into a new loan, but merely changes the terms of the mortgage (and there's no novation). The changes become part of the mortgage. For example, the loan continues even if it has a different type of mortgage product. Except where the agreement provides otherwise, the terms of the mortgage continue and apply to the loan as changed, and all security secures the loan as changed. If interest that's owing is treated as part of the loan under the agreement, that doesn't impair our priority. The agreement adds to our rights and doesn't take away or lessen a right that we have and we reserve those rights.

12.12.2.2 Where the agreement extends the term of the loan, it changes the date of the mortgage to the effective date of the agreement. This means that, if section 10 of the Canada *Interest Act* or a similar 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 the new date. Section 10 of the Canada *Interest Act* and similar laws don't apply to a mortgage given by a corporation.

12.13 Informal agreement or consent and electronic information, documents or disclosure.

12.13.1 In this section 12.13, 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 12.13, "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.

12.13.2 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.

12.13.3 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.

12.13.4 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.

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

12.14 **Power of attorney.** Where under the mortgage you give us a power to do something, you irrevocably appoint us as your attorney to do the thing. Where under the mortgage you appoint us as your attorney to do something, you also irrevocably appoint anyone we authorize as your attorney for the same purpose.

12.15 **Further actions.** When we ask, you must complete documents, or take other actions, that we think are necessary or desirable to carry out the mortgage and its intent, and you must

pay your and our costs for that. When you are to give us security, you must do so in the same way as the mortgage gives us security.

12.16 **Law.** The mortgage is governed by the law of the jurisdiction in which the property is located, including the federal law in force in that jurisdiction.

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

13. Guarantee.

13.1 **Definitions.** This part 13 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**.

13.2 **Your guarantee.** You unconditionally guarantee to us that all of what is owed, being all of the amounts listed in section 2.1, will be paid, and you guarantee that all of the other obligations of the borrower (or every borrower, if there is more than one) under the mortgage will be complied with. You agree that if any amount in section 2.1 isn't paid, you will pay it. Your guarantee continues even if the borrower becomes bankrupt or insolvent, or is discharged in a bankruptcy or other proceeding. A limit on the amount secured by the security doesn't limit your guarantee.

13.3 **Your liability.** Your guarantee also makes you liable as if you were the borrower. This section 13.3 doesn't impair our other rights under this part 13.

13.4 **Defects in borrower's obligations.** If we act on the basis that an obligation that you've guaranteed exists and anything causes it not to exist, this part applies as if the obligation had existed. This applies to the following, for example:

- A borrower lacks power to enter into an obligation, doesn't have authority to exercise a power or doesn't exercise the power properly.
- Anyone purporting to act on behalf of a borrower lacks authority or is fraudulent.

This section 13.4 applies even if we didn't inquire about these things or we were negligent, but it doesn't apply if we actually knew the obligation did not exist.

13.5 **Effect of dealings.** A dealing by us or failure by us to deal with a borrower or anyone else, or with any right or security, doesn't release you or impair your liability. This is so even if you don't know of or consent to the dealing, however we act, and even if we're unwilling to act, we receive nothing in return, we don't take care, or we're at fault in any other way. If the dealing changes or replaces what is owed, your guarantee applies to the changed obligation or replacement. Some examples are:

- We give more time to comply with what you guarantee, or we give any other waiver.
- We agree to change or replace what is owed.
- We release any person from a liability, even if the person is another guarantor with whom you were jointly and severally liable.
- We release a security, or all or part of the property from the mortgage or other security.
- We don't have, protect or take the benefit of a right against anyone, or under a security.
- We accept a part payment or any other settlement of what you guarantee.
- We agree to change a security, or an obligation of another person
- We renew the loan, even if other terms are changed (for example, the interest rate is increased or the amortization period is lowered).
- Subject to section 5.5.3, we approve a new owner of the property or deal with a new owner after a transfer of the property (for example, we renew the loan).
- We take other rights such as security or a guarantee.
- If a borrower is a corporation and the corporation is changed or amalgamated, your guarantee covers what is owed by the changed or amalgamated corporation.

Our rights against you aren't impaired if the borrower sells or deals in any other way with the property or part of it.

13.6 Enforcing the guarantee. Until we've received all of what is owed, you don't have a right to be subrogated to any of our rights, that is, you cannot take the benefit of any of our rights. We can enforce your guarantee before we enforce our rights against the borrower or anyone else, or under any security. You must pay us our costs for enforcing the guarantee.

13.7 Other terms. You agree to the following terms.

- Your guarantee continues until we release you from it in writing.
- Where more than one person has a liability under this part 13, both or all of them are jointly and severally liable (which means that they're liable individually and together).
- You agree to the terms of section 12.13 as if you were the borrower.
- No information or promise that we may have given to you affects your liability under your guarantee.
- Your guarantee adds to any other guarantee or security we may have or receive.
- Although you agree to this document as a guarantor, your guarantee is a separate agreement between you and us; it's not part of the agreement between the borrower and us.
- Your guarantee binds an heir, executor, administrator or similar representative of yours and a successor of yours. Your guarantee benefits a successor or assignee of

ours, even if you weren't told about the successor or assignee.

- You agree that we would not have entered into the mortgage without the guarantee.

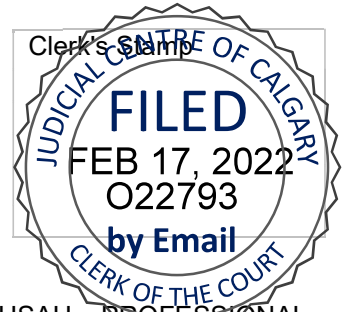


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DOC 1 OF 1 DRR#: 5497995 ADR/SMACDONA
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LA

COURT FILE NUMBER 2101-01130
 COURT COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE CALGARY
 PLAINTIFF BANK OF MONTREAL
 DEFENDANT EAGLESMED GROUP INC., CHRIS MUSAH PROFESSIONAL CORPORATION, CHRISTOPHER MUSAH, ALSO KNOWN AS CHRIS MUSAH, CHARLES FRANKLIN JOHNSON PROFESSIONAL CORPORATION, CHARLES FRANKLIN JOHNSON, YETUNDE KASUMU MEDICAL PROFESSIONAL CORPORATION and YETUNDE KASUMU



DOCUMENT **ORDER APPROVING ACTIONS OF RECEIVER, PROFESSIONAL FEES ETC.**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Cassels Brock & Blackwell LLP
 Suite 3810, Bankers Hall West
 888 3rd Street SW
 Calgary, Alberta, T2P 5C5
 Telephone: (403) 351-2920
 Facsimile: (403) 648-1151
 Email: joliver@cassels.com / kdavis@cassels.com
 File No.: 49073-9

I hereby certify this to be a true copy of the original ORDER - approving actions
 Dated this 17th day of February 2022

Arguelles
 for Clerk of the Court

Attention: Jeffrey Oliver / Kara N. Davis

DATE ON WHICH ORDER WAS PRONOUNCED: Wednesday, February 16, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Madam Justice K.M. Horner

UPON THE APPLICATION by Deloitte Restructuring Inc. in its capacity as the court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and assets of Eaglesmed Group Inc. ("**Eaglesmed**") and Chris Musah Professional Corporation ("**CMPC**" and together with Eaglesmed, the "**Debtors**") for an order, among other things, (i) approving the conduct and activities of the Receiver; (ii) approving the Receiver's interim statements of receipts and disbursements; (iii) approving the professional fees and disbursements of the Receiver and its legal counsel; and (v) increasing the amount of the Receiver's Charge and Receiver's Borrowing Charge; **AND UPON HAVING READ** the Receivership Order dated February 12, 2021 (the "**Receivership Order**"), the Second Report of the Receiver dated February 7, 2022; (the "**Second Report**"), the Confidential Supplement to the Second Report, dated February 7, 2022 (the "**Confidential Supplement**") and the Affidavit of Service of Richard Kay, sworn February 11, 2022; **AND UPON HEARING** the submissions of counsel for the Receiver, counsel to the Bank of Montreal and any other interested parties in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of this Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.
2. Terms not otherwise defined herein shall have the meaning ascribed to them in the Second Report, Confidential Supplement and Receivership Order, as applicable.

Approval of Increased Borrowing & Borrowing Charge

3. The Receiver's Borrowings Charge, as contemplated by and defined at paragraph 21 of the Receivership Order, is hereby increased from \$100,000 to \$200,000 and the Receiver shall be authorized to borrow, by way of revolving creditor or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal does not exceed \$200,000.

Approval of Professional Fees

4. The Receiver's accounts for fees and disbursements for the period of February 12, 2021 to January 31, 2022, as set out in the Second Report are hereby approved without the necessity of a formal assessment of its accounts.
5. The accounts of the Receiver's legal counsel, Cassels Brock & Blackwell LLP, for its fees and disbursements for the period of January 11, 2021 to January 31, 2022, as set out in the Second Report are hereby approved without the necessity of a formal assessment of its accounts.

Actions of the Receiver

6. The Receiver's activities as disclosed in the Second Report and Confidential Supplement are hereby ratified and approved.
7. The Receiver's statement of receipts and disbursements for the period of February 12, 2021 to January 31, 2022 attached as Appendix "K" to the Second Report, is hereby ratified and approved.

Trust Claim / Distributions

8. Unless, on or before April 15, 2022, the Debtors file and serve an application with supporting evidence (the "**Application Materials**") asserting a trust claim in relation to certain of the real property that form part of CMPC's estate in these proceedings (the "**Trust Claim**"), the Receiver

is hereby authorized and empowered to make one or more distributions to Bank of Montreal that together, total no more than \$2,500,000, provided that such distribution(s) shall be subject to reasonable holdbacks as the Receiver deems necessary for the payment of any priority payables, professional fees and the continued administration of these proceedings.

9. Any hearing of the Trust Claim shall be heard within 45 days of the filing of the Application Materials, subject to further order of this Honourable Court or any adjournment that is consented to by the Receiver.

Service

10. Service of this order shall be deemed good and sufficient by serving same on the persons listed on the service list in these proceedings and by posting a copy of it on the Receiver's website at: www.insolvencies.deloitte.ca/en-ca/Eaglesmed.
11. Service of this order on any party not listed on the service list for this application is hereby dispensed with.



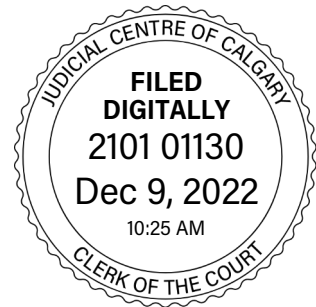
J.C.Q.B.A

APPENDIX "G"

Date	Document	Address	Delivery Method	Success?	Notes
August 10, 2023	August 10 th Correspondence	chrismusah@gmail.com chris.dr.musahspractice@gmail.com	Email	Y	<ul style="list-style-type: none"> • First email address was provided as the last known address for Dr. Musah and the Debtors in their most recent counsel's Notice of Withdrawal of Lawyer of Record ("Notice of Withdrawal"), filed December 9, 2022. • Receiver has previously communicated with Dr. Musah at these email addresses. • Sent with a read receipt request. Never received a read notification • No bounce backs received
	August 10 th Correspondence	2630 Evercreek Bluffs Way SW, Calgary, AB	Courier	N	<ul style="list-style-type: none"> • Last known address provided in Notice of Withdrawal • Courier advised the house was/is for sale and resident advised Dr. Musah no longer resides there.
August 11, 2023	August 10 th Correspondence	6403, 11811 Lake Fraser Drive, Calgary, AB	Courier	N	<ul style="list-style-type: none"> • Address indicated on Corporate Profile Report for for Chris Musah Professional Corp. • Registered Office and Primary Agent for Service • Courier attempts with no success, Dr. Musah answers the door buzzer connects to a cell phone which is answered and entry to the building is permitted, but the door is not answered, so the package was returned undeliverable.
August 25, 2023	August 10 th Correspondence	6403, 11811 Lake Fraser Drive, Calgary, AB	Courier	N	<ul style="list-style-type: none"> • Courier advised the cell phone connected to the door buzzer is answered and recipient advises he is Dr. Musah, but he is not home. •
September 1, 2023	August 10 th Correspondence	6403, 11811 Lake Fraser Drive, Calgary AB	Registered Mail	Y	<ul style="list-style-type: none"> • Registered mail was delivered and accepted on September 11, 2023.
	August 10 th Correspondence	6403, 11811 Lake Fraser Drive, Calgary AB	Regular Mail	Y	<ul style="list-style-type: none"> • Delivered and not returned as of date October 17, 2023.
Sept 1 – 5, 2023	August 10 th Correspondence	6403, 11811 Lake Fraser Drive, Calgary AB	Courier	N	<ul style="list-style-type: none"> • Courier advises it made multiple attempts to deliver, but the door is not answered.
September 8, 2023	September 8 th Correspondence	chrismusah@gmail.com chris.dr.musahspractice@gmail.com	Email	Y	<ul style="list-style-type: none"> • No bounce back received
September 8-12, 2023.	September 8 th Correspondence	6403, 11811 Lake Fraser Drive, Calgary, AB	Courier	Y	<ul style="list-style-type: none"> • Courier advises it was able to obtain access to the building on September 8 and posted the Trust Letter to the unit's door on September 12, 2023.

APPENDIX "H"

COURT FILE NUMBER 2101-01130
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF BANK OF MONTREAL
DEFENDANTS EAGLESMED GROUP INC., CHRIS MUSAH PROFESSIONAL CORPORATION, CHRISTOPHER MUSAH, ALSO KNOWN AS CHRIS MUSAH, CHARLES FRANKLIN JOHNSON PROFESSIONAL CORPORATION, CHARLES FRANKLIN JOHNSON, YETUNDE KASUMU MEDICAL PROFESSIONAL CORPORATION, AND YETUNDE KASUMU
DOCUMENT NOTICE OF WITHDRAWAL OF LAWYER OF RECORD FOR CHRIS MUSAH PROFESSIONAL CORPORATION, CHRISTOPHER MUSAH, ALSO KNOWN AS CHRIS MUSAH, only
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT MILES DAVISON LLP
900, 517 – 10th Avenue SW
Calgary, Alberta T2R 0A8
Telephone: (403) 298-0327
Facsimile: (403) 263-6840
Attention: Daniel Jukes
File No.: 49700 DKJ



Counsel for Chris Musah Professional Corporation, Christopher Musah also known as Chris Musah, Defendants, withdraws as lawyer of record for those parties only.

The last known address for **Chris Musah Professional Corporation, Christopher Musah also known as Chris Musah, Defendants** is as follows:

2630 Evercreek Bluffs Way SW
Calgary, Alberta
T2Y 4V7
Email: chrismusah@gmail.com

Legal Counsel for Chris Musah Professional Corporation, Christopher Musah also known as Chris Musah, Defendants:

Law firm name: **Miles Davison LLP**

Per:


Daniel Jukes

WARNING
This withdrawal of lawyer of record takes effect 10 days after the affidavit of service of this document on every party is filed. After that date, no delivery of a pleading or other document relating to the action is effective service on the former lawyer of record or at any address for service previously provided by the former lawyer of record.

APPENDIX "I"

**In the Matter of the Receivership of
Eaglesmed Group Inc. and Chris Musah Professional Corporation
Summary of Receiver's Fees
As at October 16, 2023**

								Receivership allocation	
Invoice	Invoice date	Period	Fees	Courtesy discount	Disbursements	GST	Total	Eaglesmed	CMPC
8001785610	30-Apr-21	Feb 12, 2021 to Apr 16, 2021	68,848	(5,640)	261	3,173	66,641	49,315	17,327
8002250356	6-Dec-21	Apr 17, 2021 to Nov 1, 2021	46,478	(4,648)	765	2,130	44,725	17,443	27,282
8002515459	4-Apr-22	Nov 2, 2021 to Jan 31, 2022	10,258	-	-	513	10,771	1,185	9,586
8002577084	28-Apr-22	Feb 1, 2022 to Apr 25, 2022	18,300	-	-	915	19,215	2,114	17,101
8002656033	27-May-22	Apr 26, 2022 to May 18, 2022	21,728	-	-	1,086	22,814	1,819	20,995
8002892168	13-Sep-22	May 19, 2022 to July 18, 2022	20,278	-	-	1,014	21,291	-	21,291
8003167801	20-Dec-22	July 25, 2022 to Dec 6, 2022	8,200	-	-	410	8,610	-	8,610
8003442160	29-Mar-23	Dec 7, 2022 to Feb 9, 2023	4,370	-	-	219	4,589	-	4,589
8003510752	14-Apr-23	Feb 10, 2023 to Apr 14, 2023	3,978	-	-	199	4,176	-	4,176
8003592800	8-May-23	Apr 15, 2023 to May 8, 2023	768	-	-	38	806	-	806
8003883159	24-Aug-23	May 17, 2023 to August 11, 2023	3,228	-	-	161	3,389	-	3,389
			206,431	(10,288)	1,026	9,858	207,027	71,875	135,152
Unbilled work-in-progress			4,250			213	4,463	-	4,463
Accual to close			10,000			500	10,500	-	10,500
Total			220,681	(10,288)	1,026	10,571	221,989	71,875	150,115

APPENDIX "J"

**In the Matter of the Receivership of
Eaglesmed Group Inc. and Chris Musah Professional Corporation
Summary of Receiver's Legal Counsel's Fees
As at October 16, 2023**

Invoice	Date	Fees	Courtesy discount	Disbursements	GST	Total	Receivership allocation	
							Eaglesmed	CMPC
2132647	20-Mar-21	7,007	(1,007)	50	300	6,350	4,763	1,588
2134962	13-Apr-21	11,841	(841)	434	565	11,999	8,999	3,000
2139086	31-May-21	52,570	(8,570)	698	2,220	46,917	23,459	23,459
2141041	22-Jun-21	15,820	(1,820)	377	703	15,080	6,032	9,048
2142166	12-Jul-21	1,247	-	17	63	1,326	-	1,326
2149397	12-Oct-21	3,644	-		182	3,826	-	3,826
2151250	4-Nov-21	2,831	-		142	2,973	-	2,973
2156468	31-Dec-21	2,881			144	3,025	-	3,025
2159723	31-Jan-22	5,095			255	5,350	1,070	4,280
2163015	18-Mar-22	30,612	(2,612)	436	1,413	29,848	-	29,848
2164380	6-Apr-22	897		25	46	968	-	968
2166777	30-Apr-22	15,486	-	322	790	16,597	-	16,597
2170479	14-Jun-22	19,805	(3,805)	605	814	17,419	-	17,419
2173216	19-Jul-22	21,471	(3,471)	347	907	19,254	-	19,254
2176032	22-Aug-22	4,000		88	202	4,289	-	4,289
2177228	7-Sep-22	2,251	-	-	113	2,363	-	2,363
2185567	7-Dec-22	2,163	-	-	108	2,271	-	2,271
2191609	7-Feb-23	8,656	-	-	429	9,085	-	9,085
2193944	6-Mar-23	944	-	-	47	991	-	991
2197170	31-Mar-23	10,128	-	-	504	10,632	-	10,632
2208649	14-Aug-23	6,674	(674)	-	300	6,300	-	6,300
2210888	7-Sep-23	3,946	(446)	22	176	3,698	-	3,698
		229,964	(23,244)	3,419	10,422	220,562	44,325	176,259
Unbilled work-in-progress		8,000			400	8,400	-	8,400
Accrual to close		10,000			500	10,500	-	10,500
Total		247,964	(23,244)	3,419	11,322	239,462	44,325	195,159

APPENDIX "K"

Cassels

April 14, 2022

Via E-Mail

Miles Davison LLP
900, 517 10 Ave SW
Calgary, AB T2R 0A8

joliver@cassels.com
tel: +1 403 351 2921
file # 49073-9

Attention: Daniel Jukes

Dear Sir:

Re: The Benin Property

We write further to your correspondence dated July 14, 2021 and in particular, the portion thereof related to the Benin Property. As you are aware, pursuant to paragraph 9(c) of the May 4, 2021 Order of the Honourable Madam Justice L.B. Ho (the “**Order**”), among other things, Dr. Musah is required to provide the Receiver with all reasonably requested information in relation to the Benin Property including without limitation:

- a municipal and legal description;
- a recent copy of the title;
- information regarding the legal owner and beneficial owner, if applicable;
- copies of any appraisal or tax certificates; and
- information and supporting documentation evidencing/explaining:
 - the reason for certain payments outlined in Schedule “A” to the Order (the “**Payments**”);
 - to whom the Payments were made; and
 - all agreements and documents evidencing the reason that CMPC made the Payments; and
- to the extent the Payments were made for investment purposes:
 - all account information including account balances;
 - the institution the accounts are held;
 - the holder of the accounts; and
 - copies of the bank/investment statements for the period of January 1, 2020 to present.

Your July 14th correspondence provides very little of the above information. You advised that Dr. Musah was still making efforts to locate additional information and would likely need further legal and accounting advice, but we have not received anything further from you to date regarding the Benin Property. Accordingly, the Receiver still requires Dr. Musah to providing the following information and documents, as well as certain additional follow-up information in response to your July 14th correspondence:

1. You have advised that Dr. Musah was not sure if there is a legal “title” document with respect to the Benin Property. The Receiver requires Dr. Musah to employ best efforts to obtain a copy of the title or other legal document evidencing the existence of and ownership of the Benin Property.
2. Dr. Musah has not advised the Receiver of the location of the Benin Property beyond it being located in a rural area of the Country of Benin, which is located in Africa and that, “[i]f asked to describe where the land is [...] it would be “Bode Village, Peter and Victoria Musah’s property”.

Based on our searches to date, there appears to be a Bode Village located in or near the Town of Giyani, in the northeastern part of the Limpopo Province of the Country of South Africa, but we are not aware of where in the Country of Benin there may be another Bode Village. Further, the accounting records provided to the Receiver reference “South Africa”. The Receiver requires Dr. Musah to clarifying this discrepancy and provide the precise location of the Benin Property.

You have advised that there is no municipal address for the Benin Property. If this is the case and there is also no legal description, the Receiver requires Dr. Musah to provide, being as precise as reasonably possible, a description of the location utilizing directions and other municipalities or landmarks as reference points (e.g. the distance and direction from the closest city or town) as well as advise how the Benin Property is accessed. The Receiver also requires Dr. Musah to indicate the location of the Benin Property on a map and to the extent available, provide any photographs of all structures on the land.

3. You have advised that the Benin Property does not fall under any municipal taxing authority. Please advise whether it falls under any state, federal or other taxing authority and whether any taxes or similar fees are paid in relation to any governmental body. To the extent there are, please provide documentation regarding same.
4. You have advised that neither Dr. Musah nor CMPC have an ownership interest in the Benin Property. You also advised that Dr. Musah understands that “the Benin Property was owned by his late father, and passed on to his mother and his father after he was deceased.” It is not clear to us from this statement, who Dr. Musah believes to be the current owner. Please provide names and contact information of the person(s) and/or entities that Dr. Musah believes have a legal, beneficial or other ownership interest in the Benin Property at present and going back to January 1, 2021 if there has been any change. To the extent this information is not known to Dr. Musah, the Receiver requires him to make any necessary reasonable inquiries to inform himself.
5. Regarding the Payments, the Receiver requires Dr. Musah to provide a detailed accounting of where each payment was sent (i.e. to who, which financial institution including the address, bank account, etc.) and for what purpose. The general description provided to date is not sufficient and, in our view, does not comply with the Order.
6. The Receiver requires copies of all bank statements from January 1, 2020 to present, account balances, names of the holder(s) of the accounts and identification of the institutions where the above accounts are or were held.

7. To the extent not already covered above, the Receiver requires Dr. Musah to provide all records held by his or CMPC's bookkeeper (Shauna McAloney) and accountant (MNP) in relation to the Benin Property and the Payments going back to the date of the first Payment on November 30, 2017.

The Receiver requires the above information and documents to be provided on or before 12:00pm MT on Monday, April 25, 2022.

Yours truly,

Cassels Brock & Blackwell LLP



Jeffrey Oliver
Partner

JO/kd

cc: Deloitte Restructuring Inc.
LEGAL*55606669.2

APPENDIX "L"

DANIEL JUKES
Direct Line: (403) 298-0327
djukes@milesdavison.com

Legal Assistant: Shaniek Shaw
Direct Line: (403) 298-0396
sshaw@milesdavison.com

June 8, 2022

Cassels Brock & Blackwell LLP
Suite 3810, Bankers Hall West
888 3rd Street SW
Calgary, AB T2P 5C5

Via E-mail

Attention: Mr. Jeffrey Oliver

Re: Responses to Information Requests – Round 2

Further to your letter of April 14, 2022, please find attached our client's supplemental responses with respect to the Benin property.

1. *You have advised that Dr. Musah was not sure if there is a legal "title" document with respect to the Benin Property. The Receiver requires Dr. Musah to employ best efforts to obtain a copy of the title or other legal document evidencing the existence of and ownership of the Benin Property.*

Dr. Musah has tried his best to acquire any legal or title documents. He has inquired with his family and is told nobody has anything. My client's seeking of information about the property has caused significant grief for him with his family. From his family's perspective, all they are hearing is that a bank is after their property, and they are not happy with Dr. Musah. His mother has expressly told him never to raise it again.

2. *...The Receiver requires Dr. Musah to clarify this discrepancy and provide the precise location of the Benin Property. You have advised that there is no municipal address for the Benin Property. If this is the case and there is also no legal description, the Receiver requires Dr. Musah to provide, being as precise as reasonably possible, a description of the location utilizing directions and other municipalities or landmarks as reference points (e.g. the distance and direction from the closest city or town) as well as advise how the Benin Property is accessed. The Receiver also requires Dr. Musah to indicate the location of the Benin Property on a map and to the extent available, provide any photographs of all structures on the land.*

Dr. Musah has clarified that the property is not in the country of Benin, but rather the area around Benin City in Nigeria (I was similarly under the misapprehension that it was the country of Benin and I apologize for any confusion). The village is indeed Bode Village and is extremely rural as previously discussed. It is not in Benin City proper, but in the outlying areas.

He has not been to the property in many years so his recollection of precise location details is limited. Usually he would usually have his family meet him in Lagos if visiting his parents. To the best of his recollection, if one is traveling to the property, the process would be along the following lines:

- **Fly to Lagos**
- **Take a small local flight to Benin City**
- **From the airport, you would get on some kind of crowded bus transport to a surrounding community, the name of which he cannot recall.**
- **From there, you would need a local bike taxi (or "Okada") to take you to the property. It would be accessed by very rough and unpaved roads that are often plagued by robbery and violence.**
- **The journey would generally take 3-4 hours from Benin City airport, largely due to much of the travel being on poor roads in slow transport.**

Dr. Musah does not have pictures. His mother is not prepared to provide him any.

3. *You have advised that the Benin Property does not fall under any municipal taxing authority. Please advise whether it falls under any state, federal or other taxing authority and whether any taxes or similar fees are paid in relation to any governmental body. To the extent there are, please provide documentation regarding same.*

As far as Dr. Musah knows, the answer is no. He asked his family and is told they don't pay anything. It is a poor and rural area without any effective tax structure.

4. Please provide names and contact information of the person(s) and/or entities that Dr. Musah believes have a legal, beneficial or other ownership interest in the Benin Property at present and going back to January 1, 2021 if there has been any change. To the extent this information is not known to Dr. Musah, the Receiver requires him to make any necessary reasonable inquiries to inform himself.

To the best of Dr. Musah's understanding, his mother is the inherited owner of the property. It has been passed down from generation to generation, but his father has passed away. The concept of "ownership" is difficult to define in the area. Oral history carries weight, and it is collective "vigilante justice" that prevents people having their land taken or sold from under them because almost nobody can produce a legal document proving they own the land. There are complicated cultural dynamics in play that are foreign to western legal systems.

5. Regarding the Payments, the Receiver requires Dr. Musah to provide a detailed accounting of where each payment was sent (i.e. to who, which financial institution including the address, bank account, etc.) and for what purpose. The general description provided to date is not sufficient and, in our view, does not comply with the Order.

Dr. Musah does not recall these details and he has no company records in his possession that might assist him in answering these questions. All company records are in the possession of the Receiver. The transfers were effected through BMO, so they may be able to provide further details on where funds were sent, bank account numbers, etc.

6. The Receiver requires copies of all bank statements from January 1, 2020 to present, account balances, names of the holder(s) of the accounts and identification of the institutions where the above accounts are or were held.

See answer to inquiry #5 above.

7. To the extent not already covered above, the Receiver requires Dr. Musah to provide all records held by his or CMPC's bookkeeper (Shauna McAloney) and accountant (MNP) in relation to the Benin Property and the Payments going back to the date of the first Payment on November 30, 2017.

To Dr. Musah's knowledge, all such documents have been provided. The Receiver has been provided with Ms. McAloney's contact details, and if any party requires his authorization to release documents he will be happy to confirm it.

I trust this addresses the Receiver's questions.

Yours truly,

MILES DAVISON LLP



Daniel K. Jukes