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# CONVEYANCING AND OTHER FORMS.

A COLLECTION OF PRECEDENTS  
ADAPTED TO THE LAW IN EVERY PROVINCE OF CANADA.  
COMPRISING  
FORMS IN COMMON USE ( OTHER THAN COURT FORMS )  
WITH CLAUSES APPLICABLE TO SPECIAL CASES.

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**THIRD EDITION**  
REVISED AND ENLARGED  
WITH NOTES ON CASES AND REFERENCES TO STATUTES.

BY  
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## PREFACE TO THIRD EDITION.

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A new edition, following so soon upon a previous one, has become necessary, firstly, because the second edition has for some time been out of print, and secondly, by reason of changes in statute and case law. Advantage of the new edition has been taken to add several hundred new forms, which include important ones from every province of Canada. The latter are given under the headings of each province, with the exception of the Ontario forms, which are included in the main portion of the book.

The numerous notes and references to cases and statutes make the present work something more than a collection of forms. The Index of Law will be found to be a partial guide to the notes.

The author is again indebted to Mr. E. M. Chadwick, of Toronto, for very valuable assistance throughout the work, as well as to many other members of the profession, who have made a special study of certain branches of the law, for forms and opinions prepared by them. Among those to whom assistance should be specially acknowledged are Messrs. G. D. Minty of Winnipeg, in connection with real property; J. G. Scott, K.C., Master of Titles, as to Land Titles; R. S. Cassels, as to Arrangements with Creditors; A. McLean Macdonell, as to Companies; W. J. Tremear as to chattel property and Landlord and Tenant; F. B. Fetherstonhaugh and W. J. Lynch, Commissioner of Patents, as to Patents; also to Mr. Peers Davidson, of the Montreal Bar, who wrote the chapter on Quebec law, and Mr. Geo. Ritchie, of Halifax, who gave much time to the forms of Nova Scotia.

A. H. O'B.

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## ACKNOWLEDGEMENTS.

### ACKNOWLEDGEMENT OF DEBT.

(General form.)

I, the undersigned, — [debtor] of —, hereby acknowledge (a) that the sum of — dollars [being part of the sum of — dollars lent to me by — (creditor) or, due from me to —, or as the case may be] is still owing and unpaid.

Dated — 19 —.

[Signature of debtor.]

(a) An I. O. U. in the following form is also sufficient:

"[Date] To — of —, I. O. U. — dollars, [Signature of debtor]."

Under the Statute of Limitations (21 Jac. 1, c. 16) all actions for (*inter alia*) debt or simple contract must be commenced within six years next after the cause of action arose, "and not after." It has been held, however, in numerous cases (*Williams v. Griffith* (1849), 3 Exch. 335; *Gardner v. McMahon* (1842), 3 Q. B. 561; *Morrell v. Frith* (1838), 3 M. & W. 402; *Dabbs v. Humphries* (1834), 10 Bing. 446) that this did not bar the right but only the remedy, and that, therefore, the debtor might revive his original liability by giving a new promise to pay, even when such new promise was not given until after the expiration of the six years, and that a new promise to pay could and should be implied from a general and unconditional acknowledgement. The plaintiff, however, must either shew an unqualified acknowledgement (as in the form above), or if he shews an express promise to pay coupled with a condition he must shew performance of the condition (*Tanner v. Smart* (1827), 6 B. & C. 603; *Fordham v. Wallis* (1852), 10 H. A. 217). Until Lord Tenterden's Act (9 Geo. 4, c. 14) the acknowledgement or new promise might have been made verbally. This Act is now embodied in R.S.O. c. 146, which enacts that no acknowledgement or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of the Statute of Limitations any case falling within the provisions of the said Act respecting actions (a) of account and upon the case other than such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants; (b) or simple contract or of debt grounded upon any lending or contract without specialty; and, (c) of debt for arrears of rent, or to deprive any party of the benefit thereof, unless such acknowledgement or promise is made or contained by, or in some writing signed by the party chargeable thereby, or by his agent duly authorized to make such acknowledgement or promise, and that where there are two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the said Act so as to be chargeable in respect of or by reason only of any written acknowledgement or promise made and signed by any other or others of them, or by reason of any payment of any principal or interest

## ACKNOWLEDGEMENT OF DEBT

CONTRACTED DURING INFANCY (b).

I, —, the undersigned, of —, being of full age, hereby promise to pay to — a debt of — dollars being the sum [or, a part of the sum of — dollars] lent to me by —, [or, due from me to —, or as the case may be,] which debt was contracted by me during my infancy and is still owing and unpaid.

Dated — 19—.

[Signature of debtor or his agent.]

## RATIFICATION OF PROMISE OR CONTRACT

MADE DURING INFANCY (c).

I, —, the undersigned of —, being of full age, hereby ratify and agree to carry out according to the terms thereof, a

made by any other or others of them (R.S.O. c. 146, ss. 1, 2). An acknowledgement, however, by one executor, though not binding on his co-executors, will bind the estate of which they are executors, the principle being that, though he has no power to bind his co-executors personally, he has power to dispose of the assets so as to bind them (*In re Macdonald* [1897] 2 Ch. 181). In actions against two or more joint contractors, executors or administrators, the plaintiff, though barred by the Statute of Limitations or by R.S.O., c. 146, as to one or more of them, may recover against any others of the defendants by virtue of a new acknowledgement, promise or payment as aforesaid (ib. s. 3). After an administration order has been made, an executor cannot give an acknowledgement to a creditor of the estate so as to bar the operation of the statute; he cannot do anything to alter the rights of the parties after an administration order, but is bound to take the objection of the statute of limitation, and any creditor or other person interested in the estate can insist on having that defence set up: See *Phillips v. Beal* (1862), 32 Beav. 26; See also *Re Wenham*, [1892] 3 Ch. 59, in which case an executor was compelled to set up this defence without administration proceedings being actually commenced.

(b) This form and the one following are drawn under the authority of R.S.O. c. 146, s. 6, which enacts that "no action shall be maintained whereby to charge any person upon any promise made after full age of any promise or simple contract made during infancy, unless the promise or ratification is made by some writing signed by the party to be charged therewith or by his agent duly authorized to make the promise or ratification." The original of the section is found in the Statute of Limitations (21 Jac. 1, c. 16), but the last line—relating to signature by an agent—was added by 26 Vict. c. 45, s. 8 (Can.).

(c) See note (b) above.

certain promise [*or, contract*] to [*set out terms of promise or contract*] made by me during my infancy.

Dated — 19—.

[*Signature of promisor, contractor, or his agent.*]

### ACKNOWLEDGEMENT OF DEBT.

MONEY SECURED BY MORTGAGE OR LIEN, OR OTHERWISE  
CHARGED UPON LAND (*d*).

I, — [debtor], of —, hereby acknowledge that the sum of — dollars payable by me to — [creditor] of —, and secured by a mortgage dated the — day of — 19—, and made between me of the one part and the said — [creditor] of the other part, [*If by a lien, give particulars of the lien*] is still due and owing by me, together with interest at the rate of — per cent per annum from the — day of — 19—.

Dated the — day of — 19—.

[*Signature of debtor or his agent.*]

### ACKNOWLEDGEMENT BY EXECUTOR

OF RIGHT TO A LEGACY (*e*).

I, —, of —, the executor of — [testator], deceased, hereby acknowledge that the legacy of — dollars payable to

(*d*) This form and the acknowledgement by executor (above) are drawn to comply with the requirements of R.S.O. c. 133, s. 23, which enacts that "No action or other proceeding shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of such land or rent, or to recover any legacy, but within ten years next after a present right to receive the same accrued to some person capable of giving a discharge for, or release of the same, unless in the meantime some part of the principal money, or some interest thereon, has been paid, or some acknowledgement of the right thereto has been given in writing signed by the person by whom the same is payable, or his agent, to the person entitled thereto or his agent, and in such case no action or proceeding shall be brought, but within ten years after such payment or acknowledgement, or the last of such payments or acknowledgements, if more than one was made or given." This section is taken from R. S. U. C. 1834, (4 Wm. 4, c. 1, s. 43), which in turn is taken from the Imperial Act 3 & 4 Wm. 4, c. 27, s. 40, the chief differences being that the last named statutes included judgements as well as mortgages, liens and legacies, and that the period of "ten" years was "twelve" years in R.S.U.C. and twenty years in the Imperial Act. It appears to be immaterial whether the acknowledgement is given before or after the expiration of the ten years.

(*e*) See note (*d*) above.



— [legatee] under and by virtue of the will of the said — [testator] (of which probate was granted to me the said —, as executor thereof by [the Surrogate Court of the county of —] on the — day of — 19—,) is still due and owing from me, with interest at the rate of — per cent per annum from the expiration of [one] year after the date of the death of the said — [testator].

Dated the — day of — 19—.

[Signature of executor.]

### ACKNOWLEDGEMENT BY EXECUTOR

#### OF RIGHT TO INTEREST ON A LEGACY (f).

I, —, of —, the executor of — [testator] deceased hereby acknowledge that interest at the rate of — per cent per annum from the — day of — 19—, is due and owing at this date from me to — [legatee] upon a legacy of — dollars payable to the said [legatee] under and by virtue of the will of the said — [testator], of which will probate was granted to me, the said —, as executor thereof by [the Surrogate Court of the county of —] on the — day of — 19—.

Dated the — day of — 19—.

[Signature of executor.]

(f) This form and the next following are to comply with R. S. O. c. 133, s. 17, which enacts that "No arrears of rent or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress or action, but within six years next after the same respectively has become due, or next after any acknowledgement of the same in writing has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent." This section is taken, almost verbatim, from R. S. U. C., 4 Wm. 4, c. 1, s. 45, which in turn is from the Imperial Act 3 & 4 Wm. 4, c. 27, s. 42.

The general words "money charged upon or payable out of any land or rent" are to be read exactly as if the cases of mortgage and lien had been enumerated as in s. 23, (*Henry v. Smith*, 4 Ir. Eq. R. 502; 2 D. & War. 381.) The combined effect of ss. 40 and 42 of the Imperial Act, 3 & 4 Wm. 4, c. 27, the wording of which is the same as R.S.O. c. 133, ss. 23 and 17 respectively, has been held to be that "no more than 6 years arrears of rent or interest in respect of any sum charged upon or payable out of any land or rent could be recovered by any distress, action or suit other than and except in actions upon covenants or debts upon specialty, in which case the limitation would be 20 years." (*Hunter v. Nockolds*, 1 McN. & G. 640; 19 L.R. Ch. 177). Under R. S. O. c. 72, s. 1, actions for rent, upon

## ACKNOWLEDGEMENT

OF RIGHT TO ARREARS OF RENT, OR OF INTEREST ON A  
MORTGAGE DEBT OR LIEN (*g*).

I, —, of —, hereby acknowledge that — months  
arrears of rent at the rate of — dollars per month [*or, arrears  
of interest on a mortgage debt, or, lien, as the case may be, of —  
dollars secured by a mortgage dated the — day of — 19—*  
is due and owing at this date from me to — of —.

Dated the — day of — 19—.

[*Signature of debtor or agent.*]

## ACKNOWLEDGEMENT

OF TITLE TO LAND (*h*).

I, — [*person in possession*], of —, hereby acknowledge  
that the parcel of land [known as — ] situate [*describe land*]

an indenture of demise, may be commenced within 20 years after the  
cause of action arose. An acknowledgement by one of several executors is  
a good acknowledgement as against the estate (*In re Macdonald*, (1897)  
2 Ch. 181), but an acknowledgement by one of several trustees is not, as  
all trustees must concur in the exercise of their powers with reference to  
the trust estate (*Astbury v. Astbury*, [1898] 2 Ch. 111).

(*g*) See note (*f*) on page 4.

(*h*) This form is under R. S. O. c. 133, s. 13, which is taken from  
R.S.U.C. 4 Wm. 4, c. 1, s. 26, which in turn is taken from the Imperial  
Act 3 & 4 Wm. 4, c. 27, s. 14. The section (s. 13) of the Ontario Act  
reads as follows:—"Where any acknowledgement of the title of the person  
entitled to any land or rent has been given to him or to his agent in  
writing, signed by the person in possession or in receipt of the profits of  
such land, or in the receipt of such rent, such possession or receipt of or  
by the person by whom such acknowledgement was given shall be deemed,  
according to the meaning of this Act, to have been the possession or receipt  
of or by the person to whom or to whose agent such acknowledgement  
was given at the time of giving the same, and the right of such last-  
mentioned person, or of any person claiming through him, to make an  
entry or distress or bring an action to recover such land or rent shall be  
deemed to have first accrued at, and not before, the time at which such  
acknowledgement, or the last of such acknowledgements, if more than one,  
was given."

It will be observed that in the case of land or rent the acknowledge-  
ment must be signed by the person in possession or in receipt of the rents  
or profits, and that there is no provision for signature by an agent. It  
should also be noted that while acknowledgements of debts may be made  
even after the statutory period has expired, acknowledgements of title to  
land or rent must be made during the currency of the statutory period  
(R. S. O. c. 133, s. 13), and it has also been held that an acknowledgement  
in writing after the statutory period has expired will not revive a title  
which the period of possession has extinguished (*McDonald v. McIntosh*  
8, U. C. R. 388; *McIntyre v. Canada Co.*, 18 Gr. 367).

of which I am now in possession [or, of which I am now in receipt of the rents and profits] rightfully belongs to — of —, and that I am in possession thereof [or, in receipt of the rents and profits thereof] by his permission.

Dated the — day of — 19—.

[Signature of party in possession.]

### ACKNOWLEDGEMENT,

BY \*MORTGAGEE IN POSSESSION, OF MORTGAGOR'S TITLE (i).

I, — [mortgagee in possession], of —, hereby acknowledge that the lands, tenements and hereditaments of which I am now in receipt of the rents and profits, and which are more particularly described in a certain mortgage dated the — day of — 19—, made between — [mortgagor] of — of the one part and myself of the other part, belong to the said — [mortgagor], and on payment of the principal money, interest and costs thereby secured shall be reconveyed to him.

Dated the — day of — 19—.

[Signature of mortgagee.]

(i) This form is under R. S. O. c. 133, ss. 19, 20, 21, which is taken from R. S. U. C., 4 Wm. 4, c. 1, s. 36, following the Imperial Act 3 & 4 Wm. 4, c. 27, s. 28. The Ontario Act enacts that "Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgager, or any person claiming through him, shall not bring any action to redeem the mortgage but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgement in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee or the person claiming through him. [Note—Not a mere agent.] And in such case no such action shall be brought but within ten years next after the time at which such acknowledgement, or the last of such acknowledgements, if more than one, was given (s. 19). In case there are more mortgagors than one, or more persons than one claiming through the mortgagor or mortgagors, such acknowledgement, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons (s. 20). In case there are more mortgagees than one, or more persons than one claiming the estate or interest of the mortgagee or mortgagees, such acknowledgement, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him or them, etc. (s. 21).

## ACKNOWLEDGEMENT

## OF USE OF PRIVATE ROAD (j).

I, — [name of person permitted to use road], of —, hereby acknowledge that the road [or, path] between [set out clearly not only the land over which the road passes, but also the terminal points] over the land of — [owner of land] of — now used by me, my servants, agents and friends is not used as of right, but by the express written permission of the said — [owner of land].

Dated the — day of — 19—.

[Signature.]

(j) The Real Property Limitation Act (R. S. O. c. 133, s. 35, which is taken from the Imperial Act 2-3 Wm. 4, c. 71, s. 2) requires that in order to prevent a prescriptive use of a way it must be shewn that the right to such way "was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing."

# AFFIDAVITS.

## AFFIDAVIT.

(General form (a).)

COUNTY [or, District] of } I, — [Christian and surname in  
— [or, United Counties } full], of the — of — in the [county]  
of — and —, } of —, — [trade or occupation],  
To Wit: } make oath and say:

1. That, etc., [Each fact should be stated clearly and accurately.  
No two separate facts should be stated in the same paragraph.]

2. That, etc.

SWORN (b) before me at the — }  
of — in the [county] of —, }  
this — day of —, 19—. }

A Commissioner for taking affidavits, etc. (c)  
[or other person authorized to take the affidavit (d).]

## AFFIRMATION.

(R.S.O., c. 1, s. 8, para. 8; c. 73, s. 12.)

COUNTY } I, — [Christian and surname in full], of the  
of —, } — of — in the county of —, — [trade or  
To Wit: } occupation], do solemnly, sincerely and truly affirm  
and declare:

1. That, etc. [Each fact should be stated clearly and accurately.  
No two separate facts should be stated in the same paragraph.]

(a) Affidavits relating to special subjects will be found throughout the book under the headings of the subjects to which they relate. For these, see the Index.

(b) For special forms of jurats, see Appendix A.

(c) Any two justices of the High Court of Ontario, of whom the president of any division shall be one, are authorized to issue commissions to take all affidavits and affirmations (where by law an affirmation is allowed) in any cause or matter concerning any proceedings of the courts of the province. These commissions are for the county or counties named therein. (R.S.O. c. 74, s. 1.)

(d) As to whom affidavits may be made before, see Appendix B.

2. That, etc.

AFFIRMED (*b*) before me at the — of — in the county of — this — day of — 19—.

—,  
A Commissioner, etc.

### AFFIDAVIT OF EXECUTION

OF INSTRUMENT TO BE REGISTERED.

(R.S.O., c. 136, Sch. G.)

COUNTY } I, — [Christian and surname in full], of the  
of —, } — of — in the county of —, — [trade  
To Wit: } or occupation], make oath and say:

1. That I was personally present and did see the annexed [*or, within*] instrument [and a duplicate thereof] duly signed, sealed and executed by — [one of] the parties thereto.

2. That the said instrument was [*or, the said instrument and duplicate were*] executed at the — of —.

3. That I know the said parties [*or one or more of them, according to the fact*], [and that he, (*or, each of them*) is over the age of twenty-one years].

[(*e*)]

4. That I am a subscribing witness to the said instrument [and duplicate].

SWORN, etc.

### AFFIDAVIT OF EXECUTION

WHERE THE INSTRUMENT IS A SECURITY BUT DOES NOT  
CONVEY THE LAND.

(R.S.O., c. 136, Sch. H.)

COUNTY of —, } I, —, of the — of — in the  
To Wit: } county of —, —, make oath and say:

1. That I was personally present and did see the annexed [*or, within*] instrument [and a duplicate, *if any, according to the fact*]

(*e*) In cases where bar of dower would be requisite, and any grantor or mortgagor is unmarried, add (if the fact is known to the witness), "That the said — is unmarried [*or, a widower not re-married*]".

duly signed, sealed and executed by — and —, the parties thereto.

2. That the said instrument was read over in my presence and explained to the said —, and he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his lands.

3. That the said instrument [and duplicate, *if any, according to the fact*] was executed at the — of —.

4. That I know the said parties [*or one or more of them, according to the fact*].

5. That I am a subscribing witness to the said instrument [and duplicate, *according to the fact*].

SWORN, etc.

---

#### OATH OF ALLEGIANCE.

UNDER "THE NATURALIZATION ACT."

(Can. 1905, c. 25, s. 2.)

I, A. B., formerly of [*former place of residence to be stated here*], in [*country of origin to be stated here*], and known there by the name of [*name and surname of alien in his country of origin to be stated here*], and now residing at [*place of residence in Canada and occupation to be stated here*], do sincerely promise and swear [*or, being a person allowed by law to affirm in judicial cases, do affirm*] that I will be faithful and bear true allegiance to His Majesty King Edward VII. [*or reigning sovereign for the time being*] as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Dominion of Canada, dependent on and belonging to the said Kingdom, and that I will defend Him to the utmost of my power against all traitorous conspiracies or attempts whatsoever which shall be made against His Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to His Majesty, His Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Him or any of them; and all this I do swear [*or, affirm*] without any equivocation, mental evasion or secret reservation. So help me God.

SWORN, [*or, Affirmed*].

A.B.

# AGREEMENTS—BUILDING.

## BUILDING LOAN AGREEMENT.

AGREEMENT made this — day of — 19—, between — of —, hereinafter called the applicant, of the first part, and — of —, hereinafter called the lender, of the second part.

WHEREAS the applicant has applied to the lender for a loan of — dollars (together with such further advance, if any, as may be made under the terms hereof and hereinafter mentioned) upon all that certain parcel of land situate, etc., and has executed a mortgage to secure the said amount.

AND WHEREAS the applicant requires the said loan for the purpose of erecting — houses on [part of] the said land.

NOW THEREFORE in consideration of the premises and of the said advance so to be made, the applicant covenants with the lender that the applicant will proceed with due diligence with the erection of and complete the said houses in accordance with the plans and specifications therefor approved [or, to be approved] by the lender, which houses are to be of the cost and value of at least — dollars, irrespective of the value of the land.

*Money to be advanced at discretion of lender.*

And the lender covenants with the applicant that the lender will advance upon the said mortgage the said sum of — dollars, in such sums from time to time as the lender may deem proper and his inspector or valuator may approve, it being the intention that the said money shall be advanced as the buildings progress in such sums as the lender shall deem prudent having regard to the progress of the work and the value from time to time of the work done and the cost of completing the work; and the lender shall not be required to advance the full amount unless the buildings shall be, in the opinion of his inspector, of the full value aforesaid.



*Lender may retain money to cover liens.*

And it is hereby agreed that the lender may retain such sums as he shall deem necessary to cover any liens for work done or materials provided on or for the said buildings, of which he shall have notice, until such liens be discharged; and that the lender may also retain a sum sufficient to provide for and indemnify him against sub-contractors' liens for a sufficient lapse of time after the completion of the buildings; and also that the lender may, after three days' notice to the applicant (to be given by delivering or mailing the same to him, addressed —), pay off any such liens which may exist, or be claimed, and he shall not be liable or responsible to the applicant for the validity or correctness of any such claim; and in case the lender should pay any such liens to an amount greater than the balance of money which he shall have on hand to be paid over upon the said mortgage such sums so paid shall be a further charge upon the said lands, and shall bear interest at the same rate as the said mortgage moneys, and shall be immediately payable to him by the applicant.

*Lender may complete building if applicant not diligent.*

It is also hereby agreed that in case the applicant should fail in erecting the said buildings with reasonable diligence the lender may, after due notice to the applicant, enter upon the said mortgaged lands and take possession of the said buildings, with power, in his discretion, to alter the plans and specifications if he deem it necessary to do so in order the better to complete the said buildings; and in case he should be unable to properly complete them with the moneys so remaining in his hands, and should advance or lay out any further sum therefor, such further sum shall be deemed to be a further advance upon the said mortgage, and shall immediately be payable by the applicant.

*Building material to be covered by mortgage.*

And it is further agreed that all bricks, lumber and other materials, articles and things brought on or to the said land or procured or made for the construction of the said buildings shall forthwith, after being brought on or to the said land or procured or made as aforesaid, be deemed to form part of the said land

and comprised and included in the said mortgage as fully and in the same manner as if they had been actually built in or used in the said building.

And it is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### BUILDING LOAN AGREEMENT.

(Another form.)

AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the mortgagor, of the first part, and — of the — of — in the county of —, —, hereinafter called the mortgagee, of the second part.

WHEREAS by a mortgage bearing even date herewith, the mortgagor mortgaged to the mortgagee aforesaid all that certain parcel of land situate, etc., to secure the payment of — dollars and interest.

AND WHEREAS the mortgagor has agreed to enter into the covenants and agreements herein contained.

NOW THIS AGREEMENT WITNESSETH that the mortgagor covenants that he will forthwith proceed to erect — [*give description of houses intended to be erected*] on the said mortgaged property in a good and workmanlike manner, and of proper material, and according to the plans and specifications to be submitted to and approved of by the mortgagee, and thence proceed continuously and vigorously with the work, and so that the said buildings shall be fully completed on or before the — day of — 19—.

That the mortgagor shall and will, from time to time, until the principal money and interest secured by the said mortgage shall be fully paid and satisfied, well and sufficiently repair, renew and amend the present and any future buildings that

may be standing on the said mortgaged property so that they shall at all times be in good and substantial repair and condition; and that he will pay for all material used or labor employed on or about the erection of the said buildings, or the repairs thereof, and protect the mortgaged property from mechanics' liens; and shall and will at all times produce and show to the mortgagee on demand the bills, vouchers and contracts for the materials used and labour employed in and about the erection of the said buildings.

That in the event of a mechanic's lien being registered against the said lands, or in the event of the mortgagor neglecting or failing to proceed continuously and vigorously with the erection of the said buildings, then the mortgagee may, after — days' notice to the mortgagor (to be given by delivering or mailing the same to him addressed —), pay off any liens which may exist or be claimed, and the mortgagee shall not be liable or responsible to any one for the validity or correctness of any such liens, and the mortgagee may retain such sums as he shall deem necessary to cover the said liens for work done or materials provided in or for the said buildings, of which he shall have notice, until such liens be discharged, and that the moneys secured by the said mortgage shall forthwith become due and be paid and the mortgagee may, without any notice, enter upon and take possession of the said mortgaged property, and either complete the said buildings or make the said repairs, at the option of the mortgagee, and may make such alterations, additions or improvements to the said buildings as the mortgagee may think proper, and the said mortgaged property shall stand charged with all moneys which shall be advanced by the mortgagee for the purposes aforesaid.

And the mortgagee agrees to advance upon the said mortgage the sum thereby secured in such sums from time to time as the inspector or valuator of the mortgagee approves and the mortgagee deems proper, it being the intention that the said money shall be advanced as the buildings progress in such sums as the mortgagee deems prudent, having regard to the progress of the work, the value from time to time of the work done, and the cost of completing the same; and the mortgagee shall not be required to advance the full amount unless the buildings shall

be, in the opinion of his inspector or valuator, of the full value aforesaid.

And it is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### BUILDING LOAN AGREEMENT.

*(Another form.)*

AGREEMENT made the — day of — 19—, between — of —, hereinafter called the applicant, of the one part, and — of —, hereinafter called the lender, of the other part.

WHEREAS the applicant has applied to the lender for a loan of — dollars, and agrees that this agreement shall be a part of the said application;

NOW IT IS AGREED between the parties hereto as follows: That the loan is required to aid in erecting upon the land mentioned in the application a building, which will cost not less than — dollars, and the said building is to form part of the security for the loan.

That before any part of the money is drawn, it must be shown to the satisfaction of the lender, by such vouchers as may be satisfactory to him, that the applicant is entitled to an advance.

That the money may be drawn from time to time as required to pay for work and materials actually done upon the building, in addition to the amount mentioned in the last preceding clause, and is to be paid on a certificate or vouchers, as mentioned in that clause, the lender retaining as a drawback until the completion of the building, such sum as may by the lender be thought advisable.

That in case at any time the building is not being proceeded with, either with the rate of progress or the quality of work or materials, so as in the opinion of the lender to secure its due completion in accordance with the contract for building,

the lender shall take such steps as he shall think necessary or proper, either by the employment of workmen, letting contracts, or otherwise to expedite the work, or to protect the work from injury from the weather or other cause; and for this purpose the lender shall have all rights, remedies and powers which the applicant has under his contract, and may enforce the same in the name of the applicant, and shall for this purpose be deemed to be, and shall be, the assignee of such contract, and entitled as well to all damages, penalties and moneys recoverable thereunder, so far as necessary, for his indemnity as to all powers and rights thereunder.

That the lender in acting under the last preceding clause may take possession of and use in the building, any material provided for the building, whether delivered on the land or not; and all expenses arising from the exercise of the powers given by that clause shall be paid out of the said deposit, and if the deposit is not sufficient the excess shall be paid by the applicant, with interest thereon at — per cent per annum, and shall form a charge upon the said land under the mortgage in addition to the mortgage money, and shall be added to and become part of the instalment of interest falling due upon the mortgage next after such excessive expense has been incurred.

That the lender may, whenever he shall deem it necessary, have the building inspected by his architect, inspector or valuator, and pay therefor such sum as he shall think reasonable, and every such payment shall be paid out of the said loan, if enough thereof remains for the purpose, or shall be paid and recoverable, with interest thereon, at — per cent per annum, in the same manner as the excess mentioned in the last preceding clause.

The applicant for himself, his heirs, executors and administrators, covenants with the lender, his heirs, executors, administrators and assigns, for the due performance of the foregoing agreement.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## BUILDING CONTRACT

BETWEEN THE PROPRIETOR AND ONE CONTRACTOR.

*(Adapted from the form of Revised Contract approved by the Architects and Builders of Toronto, 1904 (a).)*

THIS AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, hereinafter called the contractor, of the first part, and — of the — of — in the county of —, hereinafter called the proprietor, of the second part.

WITNESSETH that in consideration of the mutual agreements herein contained the contractor hereby covenants with the proprietor as follows:

That he will well and sufficiently execute and perform in a true, perfect, thorough and workmanlike manner the [brick work, plastering, carpenter work, joining, painting, etc.] required in the erection and completion of [a brick house, etc., *as the case may be*] for the proprietor on the lands situate at —, on or before the days and times, and in the manner hereinafter set forth; that is to say [the walls shall be built up and made ready to receive the roof on or before the — day of — 19—, and the remainder of the brick work shall be finished on or before the — day of — 19—,] [the plastering shall be completed within — weeks after the contractor shall have been notified by the architect hereinafter named that the building is ready to be plastered;] [the carpenter work shall be completed, *as the agreement may be, and so on with the various trades, omitting what is not required;*] all of which said work shall be done in accordance with the plans, drawings and specifications prepared for the said works by —, architect, to the satisfaction and under the direction and personal supervision of the said architect; and

(a) It is submitted that this is a very unsatisfactory form. It is inserted here by reason of its having the sanction indicated. A better form is given on page 42, a uniform contract adopted and recommended for general use by the Winnipeg builders. Special objections to the Toronto form will be found in the succeeding foot notes, but generally, it may be noted that the architect has too wide powers, and that his discretion should be subject to greater checks. This is particularly so in the matter of his power to extend the time, and a safe-guard should be imposed for the benefit of both parties. The damage clause, also, is usually construed by the architect as a penalty, thus defeating its very object. In this form also, there is no provision for protecting the contractor against damage caused to his work by other trades.

will find and provide such good, proper and sufficient material of all kinds whatsoever as shall be proper and sufficient for completing and finishing all the — work of the said building shown on the said plans and mentioned in the said specifications, and signed by the contractor within the time aforesaid, for the sum of — dollars.

The proprietor hereby covenants with the contractor that in consideration of the covenants and agreements herein contained being strictly kept and performed by the contractor as specified, he will pay or cause to be paid to the contractor the sum of — dollars in manner following: — per cent to be paid [monthly, weekly, etc., *as the case may be*], on account of the contract, including material delivered, and all additional works, as the work shall proceed, on the value thereof, which value shall be in proportion to the amount to be paid for the whole of the work and additional works, the balance of the contract and all extras to be paid within — days from the completion (*b*) of the said work, and after the contractor shall have rendered to the architect a statement of balance due to him, and it is further agreed that, in the event of several contractors being employed on the work, no trade is to be considered complete till the other several contracts are also completed.

Provided that in respect of the said payments a progress certificate shall be obtained (*c*) from and signed by the architect that he considers the payments properly due; said certificate, however, in no way lessening the total and final responsibility of the contractor, neither shall it exempt the contractor from

(*b*) In this form there is no means of determining the final completion of the work. The contractor may have substantially completed it, and yet fail in an action because he has overlooked a trifling item. In a recent suit, the outside painting of a door had been omitted by an oversight on the part of the architect. This could not be attended to during the winter, and the plaintiff was held up for several months. An equitable arrangement which would prevent this will be found in the Winnipeg form; see note (*a*) on p. 17.

(*c*) The architect is not compelled under this form, to issue progress certificates, which are a condition precedent to suit. Architects are sometimes influenced by the owners, or desire, by holding back certificates, to enforce doubtful contentions on their part. This may work injustice, and the progress certificates should be issued promptly and not be a condition precedent, if the architect is in default. This would leave the matter of default and the whole merits of the question to be disposed of by the court. A good wording of this clause is also found in the Winnipeg form; see note (*a*) on p. 17.

liability to replace work if it be afterwards discovered to have been badly done, or not according to the drawings and specifications either in execution or materials.

And provided further, that if required, in each case, the contractor shall obtain and give to the proprietor a certificate from the Registrar of the county where mechanic's liens may be recorded that he has examined the records and finds no mechanic's liens or claims recorded against the land of the proprietor on account of the contractor or any sub-contractor; and thereupon and on or before the said — day after the completion of the said works a final certificate shall be obtained from and signed by the architect, certifying to the balance due the contractor on the said contract, and for all extras in respect thereof. But if, from any reasonable cause whatever, such final certificate should not be obtained, or that the giving of the same should be refused by the architect, the contractor shall nevertheless after the expiration of the said — days be entitled to proceed at law to enforce payment of the balance due him under the said contract, and for all extra work in respect thereof, and the production of a final certificate shall not in any case be a condition precedent to his right to recover the amount justly due to him, and such balance and the amount due with respect to extras shall be recovered, if justly due, without the necessity for the production in evidence of any final certificate, and the right of action hereby provided shall not be controlled by the arbitration clause hereinafter set forth.

And it is further agreed between the parties hereto as follows, that is to say:

1. The specifications and drawings are intended to co-operate, so that any works shown in the drawings and not mentioned in the specifications, or *vice versa*, are to be executed in the same manner as if mentioned in the specifications and set forth in the drawings, to the true intent and meaning of the said drawings and specifications.

2. The contractor, at his own proper costs and charges, is to provide all manner of labour, material, apparatus, scaffolding, utensils and cartage of every description, needful for the due performance of the several works, and render all due and sufficient facilities to the architect, superintendent and clerk of the



works for the proper inspection of the work and materials, and which are to be under their control; and they may require the contractor to dismiss any workman or workmen who may be incompetent, the workmen and contractor being only admitted to the ground for the purpose of the proper execution of the works; and the contractor shall and will during the whole time of building give due personal attendance, either by himself or by a competent foreman for each trade as may be required upon the execution of all the works aforesaid, and take effectual care that the same be carried on, executed and performed with such expedition and despatch as to be in every respect completed by the day provided for the completion thereof, subject only to such provision for an extension of time as is herein provided. The contractor shall deliver up the works to the proprietor in perfect repair, clean and in good condition, when complete. The contractor shall not sub-let the works or any part thereof, without the consent, in writing, of the architect.

3. Should the proprietor or the architect, at any time during the progress of the said works, require any alterations of, or deviations from, additions to, or omissions in, the said plans and specifications, he may make such changes, and the same shall in no wise affect or make void the contract, but the value of the work omitted shall be deducted from the amount of contract by a fair and reasonable valuation, and for additional work required in alterations the amount to be paid therefor shall be agreed upon in writing and signed by the proprietor before commencing additions, and such agreement shall state also the extension of time, if any, which is to be granted by reason thereof; provided that in estimating the value of such alterations or additions regard shall be had to any loss, outlay, or damage, necessarily and reasonably sustained by the contractor in the preparations to comply with the original drawings and specifications.

4. In case the works are not carried out with such expedition and with such materials and workmanship as the architect, superintendent or clerk of the works may deem proper, then, with the special and written consent of the proprietor, the architect may give the contractor — days' notice, in writing, to supply such additional force or material as in the opinion of

the architect is necessary, and if the contractor fails to supply the same the proprietor may dismiss the contractor and employ other persons to finish the work in such manner as the architect may direct, and in accordance with the plans and specifications; and every payment made on account thereof shall be deemed a payment on account of the contract, but without prejudice to the right to recover any money in excess of the contract price which may be paid for so finishing the works, or any other damage caused by breach of this contract. But if any balance on the amount of this contract remains after completion, in respect of work done during the time of the defaulting contractor, such balance shall belong to —, or the person legally representing him.

5. Should any question arise respecting the true construction or meaning of the drawings and specifications, or should any dispute occur from any cause whatever during the continuance of this contract, such question shall be referred to the award, order and determination of the architect, whose award shall be final and conclusive (*d*), subject only to the exception provided for in clause 6, with reference to the value of any claim for extras or deductions.

6. Should any dispute arise as to the value of any claim for extras or deductions after the architect has given his final certificate in writing on the completion of the contract, such dispute shall be referred to two arbitrators, one to be chosen by the proprietor and the other by the contractor, and in case of disagreement the two arbitrators shall appoint a third, and their award and decision, or that of any two of them, shall be final and conclusive, and binding upon all parties to this contract, the submission and reference to be in writing under seal,

(*d*) The architect is here made the judge of the meaning of the specifications. The contractor may be misled by an ambiguous wording of the contract, and if he has based his figures upon what would be generally considered a reasonable interpretation of the words in the contract, and the architect subsequently decides otherwise, a great injustice might be done. In a recent case the contractor figured on rubble stone for the foundation, and the architect held that cut stone should be implied from the specifications. This entailed a considerable loss to the contractor. Again, where a tender is accepted because it is the lowest tender, if the reason for its being the lowest is that a mistake was made by the contractor, owing to ambiguity in the specifications, he should not be the one to suffer. A more reasonable wording of this clause will be found in the form on page 42.

and to be signed by the proprietor and the contractor, and duly witnessed; and the said award of the arbitrators or any two of them shall be also in writing, duly signed, sealed and witnessed, and shall, if required, be made a Rule of the High Court of Justice for Ontario, when so submitted to and decided by competent authority. When the proprietor or the contractor shall apply for an arbitration, the application shall not be entertained until security to the amount of [two hundred] dollars has been given by the applicant to cover the costs of the arbitration, and the arbitrators or any two of them shall decide as to the payment of the costs of the arbitration and award. In case of a balance remaining to the credit of the contractor according to the certificates of the architect, such balance may be received on account of the said security of [two hundred] dollars to cover the costs of arbitration. In case either party refuses or neglects to appoint an arbitrator within [two] weeks of his being notified to do so, the judge for the time being of the County Court of the County of — shall appoint one for him.

7. All figured or written dimensions on drawings or specifications shall supersede the measurement by scale.

8. The proprietor shall not in any manner be answerable or accountable for any loss or damage by fire or otherwise that may happen to the said works or any part thereof, or for any of the materials or other things used and employed in finishing and completing the said works, or for injury to any person, either workman or the public, or for damage to adjoining property from any cause which might have been prevented by the contractor or his workmen, or any one employed by him, and the contractor having control over such work must properly guard against and make good all such injuries and damages to persons or property from whatever cause resulting, being strictly responsible therefor.

9. The proprietor shall insure the building from time to time to the extent of at least two-thirds of its value during the course of erection, the amount of the premium to be assessed pro rata on the several trades; and in case the proprietor should not insure, he will be required to run all the risks of loss, so far as regards the value of the works.

10. All work and material as soon as delivered on the premises shall form part of the works, and be the property of the proprietor, and shall not be removed without his consent; but the contractor may remove all surplus material after he has completed the works herein contracted for.

11. Should the contractor fail to finish the work at or before the time agreed upon, he shall pay to or allow the proprietor, by way of liquidated damages, the sum of — dollars per week for each and every week after the said works shall remain incomplete, due allowance to be made for extension of time for additional work or alterations, as laid down in clause 3 of this agreement.

12. Should any work be delayed beyond the time mentioned in this agreement by the inclemency of the weather or by reason of general strikes or lock-outs of a particular trade, the architect shall have power to extend the time for the completion of the works, making a just and reasonable extension for that purpose.

13. The proprietor shall not be responsible to the contractor for the non-completion of a prior contractor's work, or any particular portion thereof, at the time named; but in case a contractor is unable to get possession on account of the failure of a prior contractor to complete his work within the time limited in his contract, such subsequent contractor shall be entitled to have for the completion of his contract such additional time as the architect deems necessary or just, and such extended time shall be substituted for the time for completion named in this contract.

14. All drawings and specifications in possession of the contractor shall be returned by him to the architect before the final certificate is issued.

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## BUILDING CONTRACT

BETWEEN THE PROPRIETOR AND ONE CONTRACTOR.

*(Another form (e).)*

ARTICLES OF AGREEMENT made this — day of — 19—, between — of the — of — in the county of —, hereinafter called the contractor, of the first part, and — of the — of — in the county of —, hereinafter called the proprietor, of the second part.

The contractor and the proprietor agree, each with the other, as follows:

1. The contractor will, at his own expense, and for the sum of — dollars, to be paid as hereinafter stipulated, in accordance with the plans, drawings and specifications, and subject to the general conditions prepared for such works by —, hereinafter called the architect, and signed by the contractor, on or before the — day of — 19—, or within such further time as the architect shall, for any reason deemed by him sufficient by written certificate, allow, well and sufficiently execute and complete the — required in the erection and completion of — on lands situate at — in the — of —, and will provide proper and sufficient material of all kinds for the erection and completion of such works aforesaid.

2. The proprietor will, in consideration of the premises, pay to the contractor the said sum of — dollars in manner following: Within forty-eight hours after the contractor shall have delivered to the proprietor a progress certificate, signed by the architect therefor (such certificates to be issued when and so often and upon such evidence of right thereto and of the proprietor's interests being fully safeguarded, as the architect may deem proper) eighty per cent on account of the work done and material supplied under this contract, or for duly authorized extras, the value of such work to be in proportion to the amount payable for the whole works and authorized extras; and the balance of the said contract price and of all duly authorized extras, less proper deductions, within [thirty-three] days after the contractor shall have rendered to the architect a statement of the balance due, and shall have obtained and delivered

*(e)* See notes to previous form.

to the proprietor the final certificate of the architect showing the net balance payable to the contractor. Provided that the obtaining and delivery of such certificates, progress and final, by the contractor to the proprietor are and shall be deemed conditions strictly precedent to any right of payment on the part of the contractor and to any liability on the part of the proprietor.

3. Any question arising regarding the true meaning of the drawings, specifications or General Conditions, the value of the works, extras or deductions, the time for completion, or penalty for default, the rights, duties and obligations of the contractor, and any dispute occurring from any cause whatever upon the matter of or arising out of this contract, or anything in relation thereto between the parties hereto, or between the contractor and any other contractor upon the building to be erected upon the said lands, shall be dealt with and disposed of by the architect, whose decision and certificate thereof in writing upon every such question or matter shall be final and conclusive.

4. Should the contractor fail to finish the work at or before the original or extended time as hereinbefore specified, he shall pay or allow to the proprietor as liquidated damages the sum of — dollars per day for each day thereafter that the said work shall remain incomplete.

5. No extra work shall be done or paid for unless an order therefor with price agreed upon be signed by the proprietor, and unless such order is so given any extra work so done shall not be considered extra work but shall be considered part of the work herein contracted for.

6. Upon the death or disability of the architect pending this contract, the proprietor may appoint any other duly certified architect to act in his place and stead, and the person so appointed shall thereupon have, exercise and perform all rights, powers and duties hereby conferred and imposed upon the architect.

7. The General Conditions (*f*) signed by the contractor shall be read and construed as part of these Articles, and the parties hereto will respectively abide by the stipulations and perform

(*f*) See next page.

the agreements on their parts respectively in such conditions contained.

8. The words "the proprietor," and the words "the contractor," shall, wherever used in this agreement and in the General Conditions, unless the context requires a different construction, be deemed to include the heirs, executors, administrators and assigns of such respective parties, but this shall not interfere with the condition against assignment or sub-letting by the contractor.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### GENERAL CONDITIONS.

1. The contractor admits the sufficiency of the drawings and specifications for the proposed works.

2. The contractor shall carry out the works and every part thereof, in the most sound, workmanlike and substantial manner, and in accordance with the drawings and specifications and in conformity with the directions of the architect, and with such further drawings, details and instructions as the architect may from time to time give, and shall execute all such works and supply all material, and provide everything, including all plant and labour necessary and proper for the due execution thereof to the satisfaction of the architect, and the said works shall include not only what the specifications and drawings explicitly show, but also all work and materials not particularly described or shown on the drawings and specifications which may be necessary to complete the works undertaken by the contractor.

3. In case of any discrepancy between the drawings, detail drawings and specifications, or any of them, the contractor shall follow such one of these as the architect shall direct.

4. All figured or written dimensions on drawings or specifications shall supersede the measurements by scale. The specifications and drawings are intended to co-operate so that any works shown in one only are to be executed as if mentioned in the specifications and set forth in the drawings.

5. The contractor shall set out the works undertaken by him, and shall at his own cost amend any error arising from

inaccurate setting out, including any injury or damage by delay or otherwise caused to any other contractor.

6. All materials used in the construction of the buildings shall be new and of the kind required by the specifications, and of the best of their respective kinds, and the contractor shall, upon the request of the architect, furnish him with proof of compliance with this condition.

7. The architect shall, during the progress of the works, have power at any time to condemn and reject materials in his opinion not in accordance with the specifications or his instructions, and to require the substitution of proper materials therefor and the removal and proper re-execution of any work executed with materials or workmanship in his opinion not in accordance with the drawings, specifications or instructions given, and the contractor shall forthwith carry out any such written direction of the architect at the contractor's own expense. If he refuse or neglect to comply with such direction and to rectify such work or materials to the satisfaction of the architect within such time as the architect shall deem reasonable, the architect shall have power to cause the same to be removed, altered and rectified by other persons, and the cost of so doing shall be deducted from the next or any future payment due to the contractor; or, at their option, the architect and the proprietor may exercise the powers given them by clause 25 of these conditions.

8. The contractor shall, upon the request of the architect, immediately dismiss from the works any person employed thereon who may, in the opinion of the architect, be incompetent or have misconducted himself, and such person shall not again be employed on the works without the permission of the architect.

9. The architect and the contractor, and any person authorized by the architect, shall at all reasonable times have access to the works and also to the workshops of the contractor or other places where work is being prepared for the building.

10. The contractor shall not, unless with the previous consent in writing of the architect, assign or underlet his contract, or any part thereof, or let out any part of the work.

11. The contractor shall during the whole time of building give due personal attendance, either by himself or by a com-



petent foreman satisfactory to the architect, upon the execution of all works.

12. The contractor shall conform to any direction which the architect may give as to the time of commencing any part of his works and as to executing any part or parts of the works before any other part or parts thereof, and also to any other direction or instructions which the architect shall give as to the mode of executing any part of the works and as to the quality of materials used or intended to be used therein, and also to any direction which the architect may give as to the employment of an additional force of workmen, if the architect shall deem it necessary to secure the completion of the works within the time stipulated.

13. The contractor shall, before covering up any portion of his work, give the architect twenty-four hours notice in writing of his intention so to do, and in default of such notice being given the contractor shall, at the request of the architect, and within such time as he shall name, open up for inspection any work covered up, and upon the neglect or refusal of the contractor to comply with such request the architect may employ other workmen to open up the same and to restore it to its former condition at the expense of the contractor; or, at their option, the architect and the proprietor may exercise the powers given them by clause 25 of these conditions.

14. The contractor shall conform to any Act of Parliament or municipal by-law or regulation relating to the work undertaken by him, or of any water or lighting company with whose system the structure is proposed to be connected, and shall obtain all permits and give all notices required by the said Acts, regulations or by-laws to be given to any local authority, and pay all fees or charges in connection therewith payable to any such authority or to any public officer in respect of the works; and should compliance with this clause require a deviation from the drawing and specifications the contractor shall notify the architect in writing and specify the variation necessary and the reason for making it, and the architect shall thereupon give instructions accordingly, and in default of such instructions being given within forty-eight hours after the delivery of such notice the contractor shall proceed with the work, conforming

with the statute, regulation or by-law in question, and shall be entitled to be allowed, as an extra, the amount of any additional cost or expense to which he shall have been put by reason of such variation and which the architect shall certify to be proper.

15. The contractor shall suspend work during frost or inclement weather, and any time during which such work shall be suspended shall, with the written approval of the architect, be added to the time allowed for completion of the works.

16. The contractor shall assist all other trades, and shall do all cutting, patching and jobbing necessary to complete the building, and shall do such other work, if any, to enable other contractors to carry out their contracts, as the architect shall direct.

17. During the progress of the work, or at its completion, the contractor shall remove from the building and premises, as may be from time to time directed by the architect, all soil, rubbish and other matter not required to be retained by the proprietor.

18. Neither the issue of any progress certificate by the architect, nor payment made thereon, shall in any way prejudice the final settlement between the proprietor and the contractor, nor shall it interfere with the right of the architect to require the removal of improper material or workmanship as hereinbefore provided, or the remedy of defective workmanship hereinafter provided for.

19. No alteration, addition or omission shall be made without an order in writing signed by the architect, but the proprietor or the architect shall, at any time during the progress of the work, be entitled to require the making of any alteration of, addition to, or omission from the plans and specifications without in any wise affecting the validity of the contract, and the value of any work omitted, or the difference in value between any work substituted and the work provided for in the plans and specifications, if such substituted work be of less value, shall be deducted from the amount of the contract price; and the value of any additional work, or the increased value of any substituted work, shall be added as an extra to the amount of the contract price. Provided always that the contractor shall have no right

to claim any allowance for any such extra unless the direction for such alteration or addition shall have been signed by the proprietor, and shall set forth the nature of such alteration or addition and the additional sum to be paid therefor; provided further that in estimating the value of alterations and additions regard shall be had to any loss, outlay or damage necessarily and reasonably sustained by the contractor in preparation to comply with the original drawings and specifications, and further provided that if the contractor and proprietor cannot agree upon the amount to be inserted in any written direction for allowance as an extra, the architect shall determine and decide what amount shall be inserted in such direction.

20. No material, scaffolding or other thing shall be removed from the premises unless with the written consent or order of the architect.

21. All work and material, as delivered on the premises, shall be the property of the proprietor, and shall not be removed without his consent, but the contractor shall have the right to remove surplus material after completion of the works.

22. The contractor shall be responsible for all structural or decorative damage to property, or other injury caused by the works or workmen to persons, animals or things and, notwithstanding the provisions of clause 21, as well for any loss or damage by fire, frost or other accidental cause to the works or to any materials used or intended to be used therein, and shall make good any such loss or damage from whatever cause, and shall hold the proprietor harmless in respect thereof.

23. The proprietor may, and if the contractor so demands in writing shall, insure the building from time to time to the extent of at least two-thirds of its value during the course of erection, and the amount of any premium or premiums paid by the proprietor shall be deducted by the architect, *pro rata*, from the contract prices of the several contractors in proportion to the value of the work of each covered by such insurance. Any such insurance recovered by the proprietor shall be applicable under the directions of the architect to pay the contractor for restoring or reinstating the works or any parts thereof injured by fire. Provided always that unless the contractor shall have made written demand upon the proprietor to insure

as aforesaid, the works and material shall be entirely at the risk of the contractor who shall, in any event, be bound at his own cost and expense to restore and replace all works and material lost, injured or damaged at any time before the issue of the architect's final certificate.

24. The architect shall have the right to require the contractor to allow any work which may be defective or executed not in accordance with the plans and specifications, details or instructions, to remain in the building, and in such event the architect shall deduct from any moneys payable to the contractor a sum sufficient to cover the cost of altering or replacing such defective work or material and making the same conform to such drawings, specifications or instructions.

25. If the contractor shall become insolvent or shall from any other cause, in the judgment of the architect, be unable to carry on the works, or if he shall make default in the due performance of the contract or of any of these conditions, or in duly proceeding with the works, or shall neglect or refuse to comply with any instruction or direction of the architect given pursuant to these conditions, and if the architect shall give notice in writing to the contractor of such delay, neglect or default, specifying the same, and the contractor shall not, within [seventy-two] hours after the mailing of such notice in the general post office at —, addressed to him at the works, proceed satisfactorily in accordance therewith, then the proprietor shall, upon the written certificate of the architect of the fact of such delay, neglect or default or of the contractor's failure to comply with such notice, have full power and authority forthwith to discharge the contractor and to take over the works contracted for, and thereupon all sums of money which may be due to the contractor, together with all materials, goods, chattels and effects then lying in, upon or about the building or premises shall become forfeited to the proprietor, and may be employed or sold or disposed of as he may direct, and the proprietor shall have full power and authority to employ any person or persons to complete the whole or any part of the works or to enter into any new contract or contracts for the completion thereof or any parts thereof, and he shall be entitled to claim from the contractor any additional cost and expense of completing the

works over and above the contract price agreed to be paid to the contractor, and any action which the proprietor may take as aforesaid shall be without prejudice to any claim which he may have against the contractor for breach of contract.

26. The owner's taking possession of the building before completion shall not be deemed a waiver of his right to insist upon the entire performance of the contract, and upon the observance and fulfilment by the contractor of each and every of these conditions.

27. The contractor shall be liable, and he hereby undertakes and agrees, to repair and replace all works and material which shall be found to be defective and which the architect shall, by written notice, require him to repair or replace at any time within twelve months from the date of the final certificate of the architect.

28. No contractor shall file, or cause to be filed, any mechanic's or other lien against the premises of the proprietor, all right to any such lien being hereby expressly waived by the contractor. The contractor shall keep all persons employed by him, and all persons from whom he obtains material, fully paid up, so that no such person shall at any time be in a position to file a mechanic's or other lien against the premises of the proprietor, and the architect may from time to time require the contractor, by statutory declaration or other evidence, to satisfy him of compliance with this condition; and if any lien should at any time be filed by any person employed by the contractor, or by any person from whom he has purchased material, against the premises of the proprietor, whether the person filing such lien shall have been entitled to file the same or not, the proprietor shall be entitled to deduct from any moneys payable to the contractor, or if no such moneys be payable, then to recover from the contractor all costs and expenses, including solicitors' charges, to which he may be put by reason of or in consequence of the filing of any such lien, and including all expenses necessary to secure the removal thereof.

29. The contractor shall deliver up the whole of the work comprised in the specifications completed on or before the day named in his contract, or in case of any extension of time,

within such further time as shall be allowed for the completion of the works, in a perfect state, with all scaffolding, surplus material, rubbish, etc., cleared away and removed.

30. All drawings and specifications shall, during the progress of the works, be kept by the contractor upon the premises, and shall be returned by him to the architect before the final certificate is issued.

The General Conditions contained in this and the preceding clauses (1 to 30) are those referred to in the Articles of Agreement between —, as proprietor, and the several persons whose names are undersigned as contractors.

[Signatures of parties.]

## BUILDING CONTRACT

BETWEEN PROPRIETOR AND CONTRACTOR.

(Short form.)

AGREEMENT made the — day of — 19—, between — of the — of —, hereinafter called the contractor, of the first part, and — of the — of —, hereinafter called the proprietor, of the second part, witnesseth as follows:

1. The contractor agrees to execute on or before the — day of — 19—, all the — work required in the — of — according to plans, drawings, specifications and directions of —, architect, and to provide all material, articles and things (whether particularly specified or not) necessary for the said work, for the sum of — dollars.

2. The proprietor agrees to pay to the contractor the said sum of — dollars in the manner following, viz: — per cent on account of the contract and all extra works, if any, as the work proceeds on the value of the same as certified by the said architect, which value shall be in proportion to the amount to be paid for the whole of the work and extra work, the balance to be paid within [forty] days from the completion of the work and on the agreement in the next following clause having been fully performed.

3. The contractor is to indemnify the proprietor against all claims or liens of sub-contractors or workmen employed by

him, or for materials purchased by him, and if any liens therefor be registered he is to procure them to be removed at his own expense.

4. No extra work shall be done or paid for unless ordered in writing by the proprietor or by the said architect.

5. All the covenants, clauses and provisions contained in [the form of Revised Contract approved by the Architects and Builders of Toronto (*g*)] shall form part of this contract as if embodied herein, and the county judge therein referred to shall be a judge of the county of ——. The liquidated damages therein mentioned are fixed at — dollars per week, and the time of notice to proceed with the work or apply additional force or material is fixed at [three] days

As WITNESS their hands and seals.

SIGNED, SEALED, etc.

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### BUILDING CONTRACT

BETWEEN THE PROPRIETOR AND THE CONTRACTORS OF THE  
VARIOUS TRADES. (*h*)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, [bricklayer], — of the same place, [plasterer]; — of the same place [carpenter]; [*and so on with the various contractors*], hereinafter called the contractors, of the one part, and — of the same place, —, hereinafter called the proprietor, of the other part.

WITNESSETH that the contractors in consideration of the sums of money to be paid to them respectively as follows, viz., the sum of — dollars to the said —; the sum of — dollars to the said —; [*etc., etc.*], do and each of them doth hereby covenant and agree with the proprietor as follows:

That they, the contractors, will respectively, and at their own proper costs and charges, well and sufficiently execute and perform in a true, perfect and thoroughly workmanlike manner, and on or before the days and times hereinafter men-

(*g*) See page 17.

(*h*) See notes on pp. 17, 18.

tioned, all the work required of them respectively as set out in condition numbered 11 of the conditions hereto annexed, which work is required in the erection and completion of a [*give description of building to be erected*] for the proprietor on — street in the — of —, and conformably to the plans, specifications and conditions prepared therefor and signed by —, architect, and the contractors, which said plans, specifications and conditions are hereby expressly declared to be incorporated in and to form part of this indenture.

The said work shall in all things be performed according to the said plans, specifications and conditions, after the manner therein set forth and explained, to the satisfaction and under the direction and personal supervision of the said architect, or other the architect or architects for the time being of the proprietor in charge of the said work.

Each contractor shall find and provide, at his own expense, such good, proper and sufficient materials of all kinds whatsoever as shall be necessary for the completing and finishing of his portion of the said work, as shown on the said plans and described in the said specifications and conditions; all the said materials being the best of their several kinds, and to be approved of by the said architect.

In the event of any contractor failing to complete his portion of the said work within the time allowed to him for completing the same as mentioned in condition numbered 11 of the conditions hereto annexed, or within such further time as, in pursuance of condition numbered 9 of the said conditions, the architect may allow for the completion of the same, such contractor shall forfeit and pay to the proprietor the sum of — dollars per week as liquidated and ascertained damages, computed and fixed by the parties, and not by way of penalty, for every week during which the said work shall remain incomplete after the date on which it should have been finished, which sums shall or may be retained and deducted out of so much of the contract price as, for the time being, shall remain unpaid, or be recovered and recoverable from the said contractor by the proprietor by action or otherwise.

The proprietor covenants and agrees with each of the contractors respectively that, provided the said covenants, agree-



ments and conditions shall have been in all things strictly kept and performed by each of the contractors as aforesaid, so far as each contractor himself is concerned (and provided that such contractor shall make a declaration that there is not upon the said building, nor upon the property upon which the said building is to be erected, any mechanic's lien for wages registered, and undischarged, by reason of the neglect or failure of the said contractor to pay the wages of any person in his employ, and also that he has paid all wages earned in respect of or on the said work up to and inclusive of the [fourteenth] day preceding the day upon which the said affidavit or declaration is made), he will pay or cause to be paid to the said contractor the sum of — dollars as follows, viz.: — per cent [*not less than the percentage required to be held back under the Mechanics' and Wage Earners' Lien Act (i) should be deducted liens may be recorded (j)*] of the final completion of the said [*from the value of the work*] to be paid [*weekly, or as may be agreed upon*] (on account of the contract and all additional work, if any) as the work shall proceed, on the value thereof, which value shall be in proportion to the amount to be paid for the whole of the work and additional work; the balance of the contract and all extras, if any, to be paid within — days [*this should be more than thirty days, the time within which mechanic's work, and after the said contractor shall have rendered to the architect a statement of balance due to him; but no payment shall be made without the production of the architect's certificate, as in the said conditions provided.*

And each of the said contractors doth hereby respectively covenant and agree to indemnify the proprietor against all claims of mechanic's liens which may be registered against the said building, or the lands occupied thereby, and which shall be undischarged by reason of the neglect or default of such con-

(i) R.S.O., c. 153.

(j) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made, the claim for a lien by a contractor may be registered before or during the performance of the contract or within thirty days after the completion thereof, or within seven days after the said architect, engineer or other person who has given his final certificate, or has, upon application to him by the contractor, refused to give a final certificate (Ont. 1902, c. 21).

tractor, and against all losses, costs, charges and damages which may be sustained by the proprietor by reason thereof.

And each of the said contractors doth hereby mutually agree each with the other that, in the event of any delay being caused by any contractor in the completion of any part of the work whereby any other contractor whose work is subsequent in point of time is damnified and expense caused to him, which expense would not have otherwise been incurred, then that the question of the amount of damages and the sum to be paid therefor by the contractor so causing the delay as aforesaid shall be left to the award of —, whose decision shall be final and binding on such contractors.

And it is further understood and agreed that the work of no one trade is to be considered complete till that to be done by the contractors and workmen of the other several trades shall have been completed.

And it is hereby declared and agreed that the words "contractor," "contractors," and "proprietor," wherever used in this indenture, shall, where the context allows, include and be binding not only on the said — and —, the parties hereto, but also on their respective heirs, executors, administrators and assigns, and that the words "the contract," wherever used in the conditions annexed hereto, shall mean the agreement now entered into, of which the said conditions form a part.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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CONDITIONS REFERRED TO IN THE FOREGOING INDENTURE.

1. The whole and every portion of the works described in the specifications attached hereto, and shewn on the accompanying drawings, prepared by —, architect, are to be completed according to the full intent and meaning of the plans, elevations, sections and specifications, the dimensions marked thereon and explanations attached thereto (and such detail drawings and directions as may be given from time to time during the progress of the works), in the most perfect, substantial and workmanlike manner, and to the entire satisfaction of

the architect or such person as may be appointed to superintend the said works.

2. The architect may direct any of the intended work to be omitted or additional work to be done upon the building, and may also order any of the intended work to be done or executed in substance, form and method of execution different from what is shewn and described in the plans and specifications, and the contractors respectively bind themselves to execute and carry out the directions which may be given. The execution of such variations in the erection of the building shall not render void the contract entered into, but the value of such variations shall be ascertained by fair valuation, to be made by the architect, or at his option by some competent person appointed by him, and the amount ascertained shall be added to or deducted from the contract price or balance to be paid to the contractors at the final settlement of accounts.

3. The contractors shall provide all implements, tools, machinery, scaffolding, ladders, cordage, tackle, etc., required for their respective trades, together with the cartage and carriage thereof, and remove the same, when no longer required on the works, at the direction of the architect, without charge for their use, carriage or removal; but the contractor for the mason and brickwork shall leave his scaffolding for the use of the other trades until such time as is provided in their contracts for the completion of the work in their several departments. Each contractor shall also remove all rubbish or debris which may arise from the carrying out of his department of the work, and shall leave the premises clean, so far as his department is concerned. And the contractor for the painter's department shall have the building scrubbed out before his work is begun.

4. The work shall be carried on at the sole risk and expense of the several contractors, and shall remain at their risk until taken off their hands by the architect's final certificate; and the contractors are required to use such care and take such precautions as may be requisite in bracing and securing the work against injury from storm, wind, frost, fire, or any other cause; and if any such damage should occur it shall be repaired by the contractor for each department at his own expense, and,

although the proprietor may keep the building insured for his own benefit and in his own name, this shall not relieve the contractor from his responsibility.

5. In case of any discrepancy, all written dimensions in drawings and specifications shall supersede and prevail over the measurement by scale, and, should any difference exist between the drawings and the specifications, the decision as to which shall be adhered to shall rest with the architect, notwithstanding that the decision of the architect may increase or lessen the expense to the contractors, and no alleged omission or neglect on the part of the architect shall be taken as an excuse for imperfect work.

6. If, during the progress of the work, any detailed drawings are furnished by the architect which, in the opinion of any contractor, necessitate more labour or material than the plans and specifications call for, he shall give notice in writing to the architect of his objections to the same before proceeding with the work, and in default of such notice the contractor shall not be entitled to any claim for extra labour or material occasioned by or supplied in performing the work in accordance with such detailed drawings, and no claim shall be allowed for any work different from or in addition to that shewn in the drawings or mentioned in the specifications, unless such work shall have been sanctioned by the architect previous to its having been done. The contractor shall have no claim whatsoever in respect thereof against the proprietor unless the architect's written certificate shall be obtained that such extra work was done according to his direction and to his satisfaction. The value of such extra work shall be determined by the architect, and be paid for only on his certificate.

7. The architect may reject any materials that appear to him unsuitable in kind or defective in quality, and order the removal of any part of the work that may appear to him unsound or defective in materials or workmanship, and the contractor shall remove the same and provide other materials and replace such work to the satisfaction of the architect, but shall have no claim for any additional payment in respect thereof.

8. In case damage be done to the material or work of one contractor by another contractor or his workmen, and the con-

tractor whose material or work has been damaged proves to the satisfaction of the architect that such damage was done intentionally or through the carelessness of such other contractor or his workmen, the contractor who did the damage, or the contractor in whose employ the workmen were who did the damage, shall make good the net cost thereof to the proprietor; but this clause shall in no way lessen or interfere with or in any way affect the liability of the contractor whose material or work shall have been damaged to complete his work according to the contract. And in the event of the contractor by whom or by whose workmen the injury was done paying to the proprietor the amount necessary to be expended in making good the injured work or material, and the work being restored or replaced by the contractor who originally did the same, then it shall be the duty of the proprietor to pay the money received as aforesaid to the contractor whose work was injured or destroyed.

9. In the event of any addition or alteration being made which will necessitate an extension of time for the completion of the work beyond the time mentioned in the contract, or in the event of delay in the completion of the work by reason of extraordinary inclement weather, or by reason of general strikes of any or of all of the trades, the architect shall have full power to extend the time for the completion of the work to such an extent as may seem to him reasonable and just; but no contractor shall in any way hold the proprietor liable for any delay or loss occasioned by any other contractor engaged on the works.

10. Should any contractor at any time during the progress of the works neglect or refuse to supply a sufficient number of workmen or quantity of materials, or to proceed with the said works as rapidly as is necessary, in the opinion of the architect, to ensure their being completed within the specified time, then the proprietor or the architect may, after giving two days' notice in writing to such contractor, take the work out of his hands and provide materials and employ workmen to finish the works, and the expense attendant thereon shall be deducted from the contract sum or the balance of it remaining unpaid, and, if such expense shall be in excess of that part of the contract price remaining in the hands of the proprietor, the proprietor

may compel such contractor to pay such expense so incurred in excess of the contract price.

11. The contractors will each and every one of them carry on their work with due diligence, so that the work may be handed over to the proprietor on or before the — day of — 19—, complete in all respects. The following is the time allowed for doing the hereinafter mentioned works respectively by the various contractors. The walls ready for the ground floor joists on or before the — day of — next; the walls ready for the first floor joists on or before the — day of — next; the walls ready for the roof on or before the — day of — next; the carpenter work of the building to be ready to receive the plastering on or before the — day of — next; the plastering to be finished throughout within — weeks after the building shall have been ready to receive the plastering; the joiner work to be finished within — weeks after the plastering is completed; the painting, etc., to be finished within — weeks after the joiner work is completed; the plumbing heating, gas fitting, etc., to be roughed within — weeks after the architect shall have notified the contractor to proceed with the said work; the plumbing, heating, gas fitting, etc., to be finished on or before the day when the last of any other of the tradesmen shall have completed his work.

12. All materials deposited on the ground or streets adjoining the building shall become the property of the proprietor, and shall not be moved without the written consent of the architect.

13. No work shall be sub-let without the consent of the architect.

14. No contractor shall be entitled to any payment without a certificate from the architect that such sum is due to him, and that the works are and have been carried on to his entire satisfaction, it being at the same time understood that a sum amply sufficient shall be from time to time retained by the proprietor to complete the whole of the work, and such certificate shall not exonerate any contractor from his liability to alter or make good any work previously done which the architect may decide to have been improperly done, or to pay damages for work

imperfectly done which the architect shall decide to leave in the building, or damages owing to the use of inferior materials.

15. Each contractor shall immediately give security to the amount of — dollars to the satisfaction of the proprietor for the complete performance of his part of the contract.

16. All drawings, tracings, details and copies of specifications supplied to contractors during the progress of the works shall be preserved and returned to the architect before the final certificate is granted.

17. All matters in dispute shall be left to the decision of the architect, and his decision shall be final and binding on both parties.

### BUILDING CONTRACT.

BETWEEN OWNER AND ONE CONTRACTOR.

*(The Uniform Contract—Adopted and recommended for general use by the Winnipeg Builders.)*

THIS AGREEMENT made the — day of — 19—, between — of —, of the first part (hereinafter designated the contractor), and — of —, of the second part (hereinafter designated the owner).

WITNESSETH that the contractor and the owner in consideration of the fulfilment of the agreements herein respectively made by the other, agree with each other as follows:

ARTICLE I. The contractor under the direction and to the satisfaction of —, architect, acting for the purposes of this contract as agent of the owner, shall and will provide all the materials and perform all the work mentioned in the specifications and shown on the drawings and details prepared by the said architect, and in accordance therewith, and with the general conditions annexed hereto, for the [*describe work*] which drawings and specifications are identified by the signatures of the parties hereto and which materials and work are herein called "the works."

ART. II. The architect shall furnish the contractor with such further detailed drawings or explanations as may be required from time to time and necessary to detail and illustrate the works to be done, and the contractor shall conform to the same as part of this contract so far as they may be consistent with the original

drawings and specifications referred to and identified as provided in Article I, and any corrections made therein by the architect shall be permitted without increasing the contract price only where the contractor has, by the error or omission, not been misled in making his tender on the said works.

ART. III. No alteration shall be made in the works shown or described by the drawings and specifications, except upon a written or verbal order of the architect, and when so made the value of the work added or omitted shall be computed by the architect at latest within two days after he is requested in writing by either party so to do, and the amount so ascertained shall be added to or deducted from the contract price. In case of dissent from such computation by either party hereto or of failure of the architect to make such computation the valuation of the work added or omitted shall be referred to arbitration as hereinafter mentioned.

ART. IV. The contractor shall provide sufficient, safe and proper facilities at all times for the inspection of the works by the architect or his authorized representative. He shall within twenty-four hours after receiving verbal and written notice from the architect to that effect, proceed to remove from the grounds or buildings all materials condemned by the architect, whether worked or unworked, and to take down all portions of the work which the architect shall by like verbal and written notice condemn as in any way failing to conform to the drawings and specifications. No materials brought on the ground shall be removed without the consent in writing of the architect. The whole of the works are to be executed in the most substantial, workmanlike and perfect manner, unless otherwise provided for in the specifications. The contractor shall be responsible for all loss or damage to the works that may occur during the progress of the works until such time as the works are complete, unless due to the negligence or lack of judgment of the architect or caused by other trades, provided that the contractor shall be responsible for reasonable wear and tear to the work even if caused by other trades, and the contractor shall make good any damage he is liable for, as aforesaid, with as little delay as possible, delivering the whole works clean, complete and perfect in every respect in accordance with the plans and specifications.



ART. V. Should the contractor at any time refuse or neglect to supply a sufficiency of properly skilled workmen, or of materials of the proper quality, or fail in any respect to prosecute the works with promptness and diligence, or fail in the performance of any of the agreements herein contained, such refusal, neglect or failure being certified by the architect, the owner shall be at liberty (after six days' written notice to the contractor) to provide any such labour or materials, and to deduct the cost thereof from any money then due or thereafter to become due to the contractor under this contract; and if the architect, with sufficient justification, shall certify that such refusal, neglect or failure is sufficient ground for such action, the owner shall also be at liberty to terminate the employment of the contractor for the said works and to enter upon the premises and take possession, for the purpose of completing the works comprehended under this contract, of all materials, tools and appliances thereon, and to employ any other person or persons to finish the works and to provide the materials therefor; and in case of such discontinuance of the employment of the contractor he shall not be entitled to receive any further payment under this contract until the works shall be wholly finished unless the owner is unreasonably dilatory in completing said works, at which time, if the unpaid balance of the amount to be paid under this contract shall exceed the expense incurred by the owner in finishing the work such excess shall be paid by the owner to the contractor, but if such expense shall exceed such unpaid balance, the contractor shall pay the difference to the owner. The expense incurred by the owner as herein provided, either for furnishing materials or for finishing the works and any damage incurred through such default, shall be audited and certified by the architect, but appeal from his decision may be made to arbitration, as herein provided.

ART. VI. The contractor shall complete the whole of the works comprehended in this agreement by the — day of — 19—, provided that the contractor shall, for every day after the date herein fixed for completion thereof that the owner shall be delayed solely through the contractor's default, in obtaining any use and benefit of the works, pay to the owner as liquidated damages for such delay at the rate of six per cent per annum

on the total amount of the contract price. In no case shall the owner be entitled to claim over six per cent per annum on the said contract price by reason of any special damage from delay.

ART. VII. Should the contractor be obstructed or delayed in the prosecution or completion of the works by reason of the act, neglect, delay or default of the owner or of the architect, or of any other contractor or person employed by the owner upon the works, or of the workmen of such other contractor, or by reason of extra work being required to be done or by reason of inclemency of the weather, or by reason of delay in obtaining materials caused by strikes or delays in transit or shortage of labour through no default or negligence of the contractor, or by reason of any damage which may happen by flood, fire, lightning, earthquake, or cyclone, or by reason of the abandonment of the works by the employees through no fault of the contractor, (provided that unwillingness on the part of the contractor to pay in excess of union wages shall not be deemed default on his part), then the time herein fixed for the completion of the works shall be extended for a period equivalent to the time lost by reason of any or all of the causes aforesaid, but no such allowance shall be made if, in consequence of the contractor's omission to present a claim therefor to the architect within a reasonable time after the occurrence of said delay, the architect or arbitrators are unable to make a fair estimate of the extension of time the contractor should receive hereunder. The duration of such extension shall be certified to by the architect subject to appeal to arbitration as hereinafter provided.

ART. VIII. The owner agrees to provide all labour and materials not included in this contract in such manner as not to delay the material progress of the works, and in the event of unreasonable failure so to do, thereby causing loss to the contractor, agrees that he will reimburse the contractor for such loss; and the contractor agrees that if he shall unreasonably delay the material progress of the work so as to cause any damage for which the owner shall become liable, then he shall make good to the owner any such damage. The amount of such loss or damage to either party hereto shall in every case be fixed and determined by the architect, subject to arbitration as hereinafter provided.

ART. IX. It is hereby mutually agreed between the parties hereto that the sum to be paid by the owner to the contractor for said work and materials mentioned in Article I shall be — dollars, subject to additions and deductions as hereinbefore provided and that such sum shall be paid in current funds by the owner to the contractor in fortnightly instalments as the works progress, such instalments to represent eighty per cent of the amount of the work done and materials supplied on the ground if the contract price and extras do not exceed fifteen thousand dollars, or eighty-five per cent if they do, and the architect shall, as accurately as possible, issue progress estimates thereof promptly every two weeks.

The final payment shall be made within twenty days after the contractor has substantially fulfilled this contract if the contractor shall have given satisfactory evidence that no mechanic's lien other than his own or liens of which he holds discharges exist in respect of the said works; otherwise the final payment shall be made within two days after the time for filing mechanic's liens has elapsed. The contractor may, if he considers he has completed the works, notify the architect in writing to that effect, and the architect shall, within seventy-two hours thereafter, issue a final certificate that the works are completed and the last payment due under this contract and indicating the amount thereof, or state in writing in what respects the works are incomplete and his decision shall be final, subject to arbitration as hereinafter provided. If the portion of the said works then remaining incomplete may be then readily completed by the contractor the same shall be done before he is entitled to ask for his final certificate, but if, for reasons not within the contractor's control, he cannot then complete the same, the architect shall forthwith deduct the actual value of the incomplete portions together with fifty per cent thereon (of the propriety of which deduction and the amount thereof the architect shall be the judge, subject to arbitration as herein provided) from the contract price and issue a final certificate that the works are completed and the last payment due, and indicating the amount thereof. Any such final certificate shall be conclusive evidence of the fulfilment of this contract by the contractor within the meaning hereof. All payments shall be made only

upon the written certificates of the architect to the effect that such payments are due unless the architect is in default in issuing the same.

If at any time there shall be evidence of any lien or claim in respect of the works, for which, if established, the owner of the said premises might become liable, and which is chargeable to the contractor, the owner shall have the right to retain out of any payment then due or thereafter to become due an amount reasonably sufficient to completely indemnify him against such lien or claim. Should there prove to be any such claim in respect of the works after all payments are made, the contractor shall refund to the owner all moneys that the latter may be compelled to pay in discharging such claim in consequence of the contractor's default.

ART. X. No certificate given or payment made under this contract, except the final certificate or final payment, shall be conclusive evidence of the fulfilment of this contract by the contractor, either wholly or in part, and no payment shall be construed to be such an acceptance of defective work or improper materials as would entitle the contractor to payment therefor.

ART. XI. The owner shall during the progress of the works maintain full insurance on the works in his own name and in the name of the contractor, against loss or damage by fire. The policies shall cover all work incorporated in the building, and all materials for the same in or about the premises, and shall be made payable to the parties hereto, as their interest may appear. Provided, that if the owner makes default in maintaining sufficient insurance, the contractor may insure the works in respect of his interest therein, and the premiums paid by the contractor therefor shall be forthwith payable by the owner to the contractor.

ART. XII. Any arbitration herein provided for shall be as follows: The contractor and owner shall each appoint one arbitrator and such arbitrators shall appoint a third. The decision of any two of the three arbitrators shall be final and binding. Each of the parties hereto shall pay one-half of the expenses of such reference. A party who has not appointed an arbitrator after the other party has appointed one shall do so within two days after being notified in writing by such other

party to do so. If the arbitrator of either party shall fail to proceed with the consideration of the matters within three days after being requested in writing by the other party's arbitrator so to do, such other party's arbitrator shall, if a third has not been appointed, be at liberty to act as sole arbitrator and his decision shall be final and binding, or the other two arbitrators, if a third has been appointed, may forthwith appoint an arbitrator in lieu of the one who has failed to proceed as aforesaid and the decision of two of such three arbitrators shall be final and binding. If either party has done all in his power to comply with the provisions herein contained as to securing an arbitration, but by reason of the default of the other party or of the architect or of the arbitrator appointed by such other party or by reason of the arbitrators being unable to agree, or if no award is made within a reasonable time, such party may take such action as would be permissible in the courts in the same way as if no reference of the matter in question either to the architect or to arbitration had been herein provided for and the other party shall not be at liberty to object that the remedy is only by arbitration or that arbitration is a pre-requisite to such action being taken or that the appeal to arbitration having proved abortive the decision of the architect is final and binding. An award under the provisions of this Article may be made a rule or judgment of the Court of King's Bench.

ART. XIII. The covenants herein contained shall apply to and be binding on the parties hereto and their respective heirs, executors, administrators and assigns, and each of them.

IN WITNESS, etc.

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#### UNIFORM GENERAL CONDITIONS.

The contractor will set out all the works in accordance with the specifications and drawings and have all necessary levelling carefully done and assist at any time or times that may be desired in testing any of the said works.

The contractor is to employ a competent foreman for each different branch of the trade.

No portion of the work is to be sub-let unless by written consent of the architect.

The contractor is to furnish all transportation, apparatus, scaffolding and utensils needed for performing the work.

The drawings, figures and details are to be considered part of and as illustrating the specifications and must be carefully followed. The details are intended to be final concerning all sizes, lines, etc. therein set forth and are not to be deviated from without the written direction of the architect. Figuring and notes are to be more authoritative than scale sizes, not only in the details but in all drawings, otherwise sizes are to be scaled as accurately as possible and followed.

If the plan and specifications contradict one another or are ambiguous the attention of the architect shall be drawn to the fact and his decision obtained before the work is undertaken.

The contractor is to be responsible for all violations of the law caused by obstructing streets and sidewalks; to obtain correct lines (except side lines) and grades from the city engineer; to comply with all requirements of the building by-laws of the city; to take out and pay for all necessary permits for all temporary obstructions and enclosures, and to pay all proper and legal fees to public officials; to be responsible for all damages to neighboring proprietors caused by the construction and carrying out of the work in a negligent or improper manner and to hold the proprietor harmless from all claims in respect thereof and at the completion of the work shall remove all rubbish and waste material from the building, grounds and street and leave the same clean and relay all sidewalks that may have been removed or damaged through the progress of the work to the satisfaction of the architect.

If at any time the architect considers any workman incompetent, the contractor will be required to dismiss the same if requested by the architect so to do.

Should the work run on until the cold weather, contractor must heat the building at his own expense if necessary for the completion of the work to be done by him and to the satisfaction of the architect.

All drawings and specifications are and shall remain the property of the architect.

## WAIVER OF LIEN

IN BUILDING LOANS.

PROVINCE OF —, )

To Wit: )

IN THE MATTER of a loan from A.B.  
to C.D. of — dollars secured by mortgage on [*describe property*].

KNOW ALL MEN by these presents that I, E.F., the undersigned, do, for the purpose of inducing A. B. to make the said loan to the said C.D. on the property above mentioned, hereby renounce and waive any right I have to any lien for work done or to be done, services rendered or to be rendered, or materials supplied or to be supplied for or in connection with the building on the above described land and any and all rights to register a claim of lien against the said building or land to the end and extent that the amount to be advanced by the said A.B. to the said C.D. under the said mortgage on the said land may be a first lien or charge against the said land in priority to any claim of lien I now have or may hereafter have for work done or to be done, services rendered or to be rendered, or materials supplied or to be supplied in or about the building situate upon the said land and the construction thereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## AGREEMENTS—LAND.

### AGREEMENT FOR SALE OF LAND.

(Short form.)

AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the vendor, of the one part, and — of the — of — in the county of —, —, hereinafter called the purchaser, of the other part.

The vendor agrees to sell and the purchaser agrees to purchase all that certain parcel of land, situate, etc., for the sum of — dollars, payable as follows; the sum of — dollars upon the signing of this agreement, and — dollars on the completion of the purchase [*or as may be agreed*].

The vendor shall not be required to furnish any abstract of title, or procure or show any deed or evidence of title not in his possession, or any copies of deeds or papers. The conveyance to be drawn at the expense of the —, and to contain only the ordinary statutory covenants [*or as may be agreed*], and the land to be conveyed free from dower and other incumbrances.

The purchaser to be allowed — days to investigate the title, which he shall do at his own expense, and if within that time he shall furnish the vendor in writing with any objection to the title which the vendor shall be unable or unwilling to remove the vendor may cancel this agreement by a letter delivered to the purchaser, or mailed, postage prepaid, and addressed to him at —, and the vendor shall thereupon return the deposit money to the purchaser without interest, and shall not be liable for any expenses incurred by the purchaser. Provided that the purchaser may waive such objection by giving notice to the vendor within — days of the receipt of the notice of cancellation, and upon the receipt thereof by the vendor this agreement shall be continued in full force and effect.



Time to be the essence of this agreement. The vendor to pay the proportion of insurance premiums and taxes to the date of giving possession [*or as may be agreed*] after which date the purchaser is to assume them.

This agreement to extend to and be binding on the respective heirs, executors, administrators and assigns of the parties hereto.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### AGREEMENT FOR SALE OF LAND

WITH SPECIAL CLAUSES (a).

AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the vendor, of the one part; and — of the — of — in the county of —, —, hereinafter called the purchaser of the other part.

#### *Agreement of sale.*

The vendor hereby agrees to sell to the purchaser, and the purchaser hereby agrees to purchase from the vendor, all that certain parcel of land, situate, etc., for the price or sum of — dollars.

#### *Purchase money payable in cash and by assuming mortgage.*

Payable in manner following; that is to say: — dollars upon the signing of this agreement, [the further sum of — dollars by assuming as part of the consideration money an existing mortgage for — dollars], the further sum of — dollars on the — day of — 19—, and the remaining sum of — dollars to be secured by a [first] mortgage on the said land payable as follows: [*here set out terms of payment of principal*] with interest thereon at the rate of — per cent per annum, payable [half-yearly].

#### *Mortgage back—what to contain.*

Which mortgage shall be drawn at the expense of the purchaser and shall contain the usual statutory covenants [*or, shall*

(a) See also special clauses in "Conveyance of Land".

be in the form and with the covenants and provisoes used by the solicitor for the vendor, and now shewn to the purchaser], and such interest, if any, as shall have accrued and be unpaid under the terms of this agreement shall be added to and form part of the principal money secured by the said mortgage, and in which mortgage the dower of the mortgagor's wife shall be barred, and the said mortgage shall contain a power of sale on — notice after — months default. Provided that the vendor's acceptance of the said mortgage shall not in any way be held to waive the vendor's lien for unpaid purchase money.

*Purchase money payable in grain (b).*

Payable in the manner and on the days and times hereinafter mentioned, that is to say; by the purchaser delivering to the vendor at the separator as soon as threshed [one-third] of all the crops of wheat, oats and of any other kind of grain whatsoever to be sown, grown and harvested on the said lands in each and every year, until the whole amount of purchase money and interest, as hereinafter provided, is fully paid and satisfied; and it is hereby agreed between the parties that the vendor is to accept his share of the said crops of grain at the then current market prices when such share is delivered to him. The said crops of grain are to be divided between the vendor and the purchaser at the separator in each and every year in the proportions above named, by the vendor taking one-third and the purchaser the remaining two-thirds of all the crops as they come from the separator, the proceeds of the grain delivered to the vendor to be applied by him first in payment of any interest or taxes in arrears and then in reduction of the principal money due hereunder, [the vendor's said one third to be delivered for him at an elevator at —].

*Covenant to pay purchase money.*

And the purchaser covenants with the vendor that he will pay to the vendor the sums of money above mentioned as each of such sums becomes due, and will pay interest at the rate of — per cent per annum upon all payments in default, whether of principal or interest.

(b) This mode of payment is frequently used in Manitoba, Alberta and Saskatchewan.

*Payment and apportionment of taxes, rents, etc.*

*Covenant to pay taxes, etc.*

And that the purchaser will, from and after the — day of — 19—, [or, the date of his receiving possession of the said land] pay all taxes and other assessments wherewith the said land may be rated or charged, and all taxes, rates, rents and insurance premiums shall be apportioned between the parties hereto, as of and from that date [and that the purchaser will also pay and satisfy a certain mortgage made by — to —, dated the — day of — 19—, for — dollars].

*Insurance of buildings.*

And will also insure and keep insured the buildings on the said land (loss if any payable to the vendor) to the amount of not less than — dollars until all sums due hereunder are paid, [and all buildings hereafter erected on the said land shall be insured to the full insurable value thereof, loss if any payable to the vendor].

*Conveyance.*

In consideration whereof, and on payment to the vendor of the said sums of money and interest thereon punctually at the times fixed, and on performance of the conditions aforesaid, the vendor agrees with the purchaser to immediately thereupon convey to the purchaser, in fee simple, the said land, free from dower and other encumbrances, such conveyance to be prepared at the expense of —, and to contain the usual covenants [and also, *here insert special covenants*].

*When title not yet in vendor.*

[If the vendor has not yet acquired the title to the land, the following covenants may be used instead of the corresponding covenants in the form.]

If the purchaser shall pay the said sums of money punctually at the times fixed and shall strictly and literally perform all the aforesaid conditions, then the vendor will forthwith, or as soon thereafter as he shall acquire title thereto, and on the execution by the purchaser of the mortgage hereinbefore mentioned and the surrender of this agreement, execute and deliver a conveyance at the expense of the [purchaser] containing cov-

enants only against the acts of the vendor, conveying the said land in fee simple to the purchaser, his heirs and assigns. And the purchaser covenants with the vendor that upon payment by him of the sums above mentioned he will surrender this agreement and execute the mortgage hereinbefore mentioned.

And the vendor agrees to use all reasonable diligence to obtain title to the said land, but the purchaser shall have no claim for damages against the vendor in the event of his failing to obtain such title, except for the return of the moneys paid under this agreement, and it is further agreed that the vendor shall not be required to produce or furnish any abstract, title, deed or evidence of title not in his possession.

*Title: Objections and requisitions.*

Any objections to or requisitions on title are to be in writing and delivered to the vendor's solicitor within — days from this date. The purchaser shall be deemed to have accepted the title except as to any objection or requisition made within that time. If any objection or requisition be made within that time, which the vendor is unable or unwilling to remove or comply with, the vendor may (notwithstanding any intermediate negotiations with respect thereto, or attempts to remove the objection or comply with the requisitions), by notice in writing to the purchaser or his solicitor, rescind the sale, in which case the vendor shall not be liable for any costs, damages, compensation or expenses [or as may be agreed upon].

Provided always that the purchaser may waive such objections or requisitions by giving notice in writing to that effect to the vendor or his solicitor at any time within — days from the receipt of such notice of rescission being received, and on such notice of waiver being given this agreement shall remain in full force and effect as though such objection or requisition had never been made. Any objections to the sufficiency of the answers of the vendor are to be in writing and delivered to the vendor's solicitor within — days from the delivery to the purchaser or his solicitor of such answers. If no objection to the answers is made within that time, the purchaser shall be deemed to have accepted the title. If the purchaser make any objection to the answers of the vendor within the time limited,

the vendor (notwithstanding any attempt to answer original requisitions or remove original objections, and notwithstanding any further attempt to answer or remove objections, and notwithstanding any further negotiations) shall have the right to rescind the sale, subject to the provision for waiver of objections hereinbefore contained, and in such case the vendor shall not be liable for any costs, damages, compensation or expenses [*or as may be agreed upon*].

*Possession of land.*

Possession of the said land shall be delivered to the purchaser on the — day of — 19—.

*or*, The purchaser shall, immediately after the execution of this agreement, have the right of possession to the said land, but must get possession at his own expense.

*or*, The purchaser may occupy and enjoy the said land from and after the — day of — 19—, until default shall be made in the payment of any sum of money above mentioned, or the interest thereon, or any part thereof, in the manner above set forth.

*Timber to be preserved.*

The vendor shall remove no wood from the said land, and shall cut down no woods or timber thereon, (except sufficient quantity for fuel and fencing for actual and necessary use thereon, and for buildings to be erected thereon) until the purchase money is fully paid, and in no case shall cut ornamental trees on the said land.

*Improvements made by purchaser.*

All improvements placed upon the said land shall remain thereon, and shall not be removed or destroyed until the final payment for the said land has been made.

*Error in description.*

Should any error or omission affecting the quantity of land be discovered in the description of the land hereby agreed to be conveyed, before the actual conveyance thereof, but not afterwards, such error or omission shall not invalidate this agreement, but compensation shall be allowed or given, as the case may require.

*Existing tenancies.*

And it is agreed that the said land is sold subject to existing tenancies as follows, namely: —.

*Purchase of fixtures.*

And the purchaser agrees to buy, and on the completion of the purchase pay for, the fixtures and fittings in the said buildings at the valuation mentioned in the schedule hereto annexed, in which schedule the said fixtures and fittings are more particularly specified.

*Distress on default.*

And the purchaser further covenants and agrees that if he shall make default in payment of any of the sums of money or of any interest or charges hereinbefore agreed to be paid, or any part thereof, at any of the days or times hereinbefore limited for the payment thereof, the vendor may distrain therefor upon the said land or any part thereof, and by distress warrant may recover by way of rent reserved as in the case of demise of the said land so much of the said sums, interest or charges as shall, from time to time, be or remain in arrear or unpaid, with all costs and expenses attending such levy and distress as in like cases of distress for rent.

*Acceleration of rent.*

Should the goods of the purchaser [tenant] be seized in execution, or in any other manner, the instalment of rent then next payable shall become payable forthwith upon such seizure.

*Interest on purchase money.*

If from any cause whatsoever the purchase shall be delayed beyond the — day of — 19—, the purchaser shall thenceforth be entitled to the rents and profits of the said land, and shall pay interest at the rate of — per cent per annum on the balance of the purchase money then remaining unpaid from the said day until the purchase is completed.

*Damages for breach (c).*

For the due performance of this agreement the parties hereto agree that the sum of — dollars shall be the measure

(c) This clause is often inserted, although experience has shewn that it is very difficult to recover specified damages for breach.

of damages for the breach thereof, and the said sum shall be recoverable by either party from the other as liquidated damages, and not as a penalty, and this shall be in addition to and irrespective of any other right, liability, or remedy which either party may be entitled to otherwise than by virtue of this proviso.

*Lien on crops till purchase money paid.*

And it is agreed that all grain, produce, hay and straw grown upon the said lands during each of the years in which the purchase money or interest shall be due or payable shall be and remain the property of the vendor until the then current year's payment of purchase money and interest has been paid, and shall not be removed from the said lands until such payments have been made. And the purchaser covenants to cultivate the said lands in a good and husband-like manner and in accordance with the directions and to the satisfaction of the vendor, cropping all land which the vendor shall designate and summer fallowing such part as the vendor shall direct, and to fall plow and leave ready for crop in the next ensuing season all lands not summer fallowed.

*Rescission of agreement (d).*

If the purchaser fails to make the payments aforesaid, or any of them, within the times above limited respectively, or fails to carry out in their entirety the conditions of this agreement in the manner and within the times above mentioned, the times of payment as aforesaid being of the essence of this agreement, then the vendor may mail to the purchaser a notice in writing signed by the vendor or his agent or attorney, and enclosed in an envelope post-paid and addressed to the purchaser at —, or delivered to the purchaser personally, to the effect that unless such payment or payments so in arrear is or are paid or such condition or conditions are complied with within — days from the mailing thereof, this agreement shall be void, and upon the said notice being so mailed and upon the purchaser continuing such default for the space of — days thereafter all rights and interests hereby created or then existing in favor of the purchaser or derived under this agreement, shall forthwith cease and determine, and the land hereby agreed to be sold shall

(d) See also clause in form on page 60.

revert to and re-vest in the vendor without any declaration of forfeiture or notice (except as hereinbefore mentioned) and without any act of re-entry or any other act by the vendor to be performed, or any suit or legal proceeding to be brought or taken, and without any right on the part of the purchaser to any reclamation or compensation for moneys paid thereon or to damages of any kind whatever. Part compliance only with any of the said conditions, or part payment of such instalments in arrear (even though accepted by the vendor or the vendor's agent) shall not operate to prevent the forfeiture at the end of the said period of — days after the mailing of the said notice, unless the vendor or his agent shall expressly waive the same by writing, and no waiver by the vendor of any condition or breach of condition shall operate to waive any other breach of the said condition or any other matter or thing herein contained.

*Assignment of agreement to be approved.*

No assignment of this agreement shall be valid unless it shall be for the entire interest of the purchaser, and be approved and countersigned by the vendor or his agent, and no agreement or conditions or relations between the purchaser and his assignee, or any other person acquiring title or interest from or through the purchaser, shall preclude the vendor from the right to convey the premises to the purchaser on the surrender of this agreement and the payment of the unpaid portion of the purchase money which may be due hereunder, unless the assignment hereof be approved and countersigned as aforesaid.

*Time the essence of the agreement.*

And it is further agreed that time shall be of the essence of this agreement.

*Legal representatives to be bound.*

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.



## AGREEMENT FOR SALE OF LAND.

(Another form (e).)

THIS AGREEMENT made this — day of — 19—, between — of —, —, of the first part; and — of —, —, of the second part.

WITNESSETH as follows:

1. The vendor agrees to sell to the purchaser who agrees to purchase, all and singular [*description of land*] at and for the price or sum of — dollars in gold or its equivalent, to be paid to the vendor at —, as follows: [*Terms of payment*]. All interest on becoming overdue shall be forthwith treated as principal money and shall bear interest at the rate aforesaid, and in the event of default being made in the payment of principal, interest, taxes or premiums of insurance, or any part thereof, the whole purchase money shall become due and payable.

2. The purchaser covenants with the vendor that he will pay to the vendor the said sum, together with interest thereon as aforesaid on the days and times and in the manner above set forth.

3. The purchaser covenants with the vendor to pay taxes, rates and assessments upon the said lands and premises from and after the date hereof, and to insure the buildings now on or to be erected upon the said lands to the amount of their full insurable value. The last two covenants shall have the meaning mentioned in the Manitoba Act respecting Short Forms of Indentures for similar covenants, substituting the word "vendor" for the word "mortgagee" and the word "purchaser" for the word "mortgagor" therein. All buildings now on or to be erected on the lands herein described shall become a part of the freehold and shall not be removed or destroyed without the permission of the vendor; and all moneys realized from the insurance in case of loss shall be applied in reduction of the purchase money or in rebuilding, at the option of the vendor.

4. In consideration whereof and on payment of all sums due or to become due hereunder as aforesaid the vendor agrees

(e) This form has been specially drawn for use in Manitoba, but may be adapted for any province.

to convey the said lands to the purchaser by a transfer under "The Real Property Act" without covenants other than those implied in such transfer, or by a statutory deed, and subject to the conditions and reservations contained in the original grant from the Crown, which transfer or deed shall be prepared by the vendor's solicitors. And it is further agreed that the purchaser hereby accepts the title of the vendor to the said lands, and shall not be entitled to call for the production of any abstract of title or proof or evidence of title, or any deeds, papers or documents relating to the said property other than those which are now in possession of the vendor,

5. The purchaser shall, immediately after the execution of this agreement, have the right of possession to the said lands but must get possession at his own expense.

6. The purchaser hereby attorns to and becomes tenant to the vendor from year to year at a yearly rental equivalent to, applicable in satisfaction of, and payable at the same time as the instalments of principal and interest secured hereby and payable in each such year respectively.

7. Provided that in default of payment of the said moneys and interest or any part thereof on the days and times aforesaid or of performance or fulfilment of any of the stipulations, covenants, provisoes or agreements on the part of the purchaser herein contained, the vendor may determine and put an end to this agreement or the said tenancy, or both, and retain any sums paid hereunder as and by way of liquidated damages as follows, that is to say, by mailing in a registered package a notice signed by or on behalf of the vendor, intimating an intention to determine this agreement or the said tenancy, or both, addressed to the purchaser at — post office, or by delivering the said notice to the purchaser personally, and at the end of thirty days from the time of mailing or delivery thereof the purchaser shall deliver up quiet and peaceable possession of the said lands and premises to the vendor or his agent, and if the said notice be one of intention to determine this agreement, this agreement shall, at the expiration of the said thirty days, become void and be at an end, and all rights and interests hereby created or then existing in favor of the purchaser or derived under this agreement shall thereupon cease

and determine, and the lands hereby agreed to be sold shall revert to and re-vest in the vendor without any further declaration of forfeiture or notice or act of re-entry and without any other act by the vendor to be performed, and without any suit or legal proceedings to be brought or taken and without any right on the part of the purchaser for any compensation for moneys paid under this agreement.

8. Provided that, there being no default hereunder, the purchaser may pay off all or any part of the moneys hereby secured, at any time without notice or bonus.

9. Provided further that upon payment of — dollars of the purchase money the purchaser may ask for and the vendor shall furnish a transfer or deed, according to the terms and provisions above mentioned, upon the purchaser executing in favour of the vendor a first mortgage on the said lands free from all encumbrances, such transfer to provide for the payment of the balance of the purchase money in accordance with the provisions above set forth and to contain a covenant by the purchaser for insurance against fire as provided in clause 3 hereof, such mortgage to be on such form as shall be satisfactory to the vendor's solicitor and to be prepared by the vendor's solicitor, the transfer or deed at the expense of the vendor and the mortgage at the expense of the purchaser.

10. No assignment of this agreement shall be valid unless it shall be for the entire interest of the purchaser and be approved and countersigned by the vendor or his agent, and no agreement or conditions or relations between the purchaser and his assignee, or any other person acquiring title or interest from or through the purchaser, shall preclude the vendor from the right to convey the premises to the purchaser on the surrender of this agreement and the payment of the unpaid portion of the purchase money which may be due hereunder unless the assignment hereof be approved and countersigned as aforesaid.

11. The terms "vendor" and "purchaser" in this agreement shall include and be binding on the executors, administrators and assigns of each of the parties hereto.

12. Time shall be in every respect of the essence of this agreement.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## ASSIGNMENT OF AGREEMENT

### FOR SALE OF LAND.

THIS INDENTURE made the — day of — 19—, between — of —, of the first part, — of —, of the second part, and — of —, of the third part.

WHEREAS the party of the first part by agreement dated the — day of — 19—, agreed to purchase the land hereinafter mentioned from the party of the third part, and in and by such agreement covenanted with the party of the third part to pay the purchase money mentioned in the said agreement.

AND WHEREAS the party of the first part is desirous of assigning his interest in the said land to the party of the second part. And the party of the second part has agreed, in consideration of such assignment being accepted by the party of the third part, to give his personal covenant to the party of the third part to carry out and fulfill all the covenants and conditions in the said agreement by the party of the first part agreed to be done, paid or performed.

AND WHEREAS the party of the first part (in consideration of the party of the third part accepting the said assignment), has agreed that this assignment, or the acceptance thereof by the party of the third part, shall not in any way affect the rights of the party of the third part to enforce the covenants of the party of the first part in the said agreement contained against him or his representatives.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises, and of the sum of — dollars now paid by the party of the second part to the party of the first part (the receipt whereof is hereby acknowledged) the party of the first part doth hereby grant, bargain, sell, assign, transfer, and set over unto the party of the second part, his heirs and assigns forever, all the estate right, title, interest, claim and demand

whatsoever, of the party of the first part, of, in and to that certain parcel of land, situate, etc., together with all the interest of the party of the first part in the said agreement, so far as the same relates to the above described land.

To have and to hold the same with every benefit that may be derived from the said land unto and to the use of the party of the second part, his heirs and assigns forever. Subject nevertheless to the reservations, limitations, provisoes and conditions expressed in the original grant from the Crown, and subject also to the terms of the said hereinbefore in part recited agreement and the covenants and conditions therein contained.

And the party of the second part for the consideration aforesaid hereby covenants with the party of the first part, to assume, pay and discharge all moneys due or to become due under the said agreement and to indemnify and save harmless the party of the first part against and from payment thereof, or any part thereof, and to observe, keep and perform all the terms, covenants and conditions in the said agreement contained, and by the party of the first part therein agreed to be observed, kept and performed.

And the party of the first part covenants with the party of the second part that he has done no act to encumber the said lands and has done no act and has been guilty of no omission or laches whereby the said agreement has become in part or entirely in anywise impaired or invalid.

And the party of the second part, in consideration of the party of the third part accepting this assignment, which acceptance may be without formal execution hereof by said party of the third part hereby covenants and agrees to and with the party of the third part, his executors, administrators and assigns to pay the several sums of purchase money and interest in the said agreement contained, on the days and times when they shall become due, and to do and perform all other acts and things which the party of the first part in the said agreement covenanted with the party of the third part to do.

And the party of the first part, for the consideration aforesaid, hereby covenants that the execution of this agreement or the acceptance thereof by the party of the third part, shall not in any way release him from his obligations to perform the said

agreement, and all covenants and conditions therein contained by him agreed to be done and performed.

IN WITNESS, etc.

SIGNED, SEALED, etc.

# OFFER TO PURCHASE OR SELL LAND.

To — of —.

I hereby make you, or your assigns, the following offer, which shall be open for acceptance in writing until — o'clock on the — day of — 19—, but no longer.

I offer to [*purchase or sell, as the case may be*] all that certain parcel of land, situate, etc., for the price or sum of — dollars, payable as follows: the sum of — dollars on the acceptance hereof; [the further sum of — dollars by assuming as part of the consideration money an existing mortgage for — dollars;] the further sum of — dollars on the acceptance of title and delivery of conveyance; and the remaining sum of — dollars to be secured by a mortgage on the land, with interest on the mortgage money from the date of acceptance hereof at the rate of — per cent per annum, payable [half-yearly]; said mortgage to be a first encumbrance, and to contain a bar of dower, if agreed, and to contain a power of sale to be exercised after [one month's default upon — days' notice]. [*Here state any other special provisions.*]

The vendor shall pay the proportion of taxes to [date of acceptance,] after which they shall be paid by the purchaser.

The purchaser shall take the said property subject to existing tenancies, and shall be entitled to all rents from the date of acceptance, and shall pay to the vendor the unearned portion of the existing insurance premiums.

The vendor shall not be bound to produce any abstract of title or any deeds, copies of deeds, or any other evidences of title except such as are in his possession.

The purchaser to search the title at his own expense, and to have — days from the date of acceptance to examine it, and shall be deemed to have accepted the title except as to any written objections made within that time. If any objection be

made within that time the vendor shall have a reasonable time to remove it; but if he be unable or unwilling to do so, he may, notwithstanding any intermediate correspondence, cancel the contract and return the deposit, and shall not be liable to the purchaser for any expenses incurred by him.

This offer, if accepted as aforesaid, shall, with such acceptance, constitute a binding contract of purchase and sale, and time shall be strictly of the essence hereof.

IN WITNESS whereof I have hereunto set my hand [and seal] this — day of — 19—.

WITNESS:

#### ACCEPTANCE OF OFFER.

I HEREBY ACCEPT the above offer, and agree to fulfil the terms thereof.

IN WITNESS whereof I have hereunto set my hand [and seal] this — day of — 19—.

WITNESS:

#### OPTION OF PURCHASE OF LAND.

AGREEMENT made the — day of — 19—, between — of —, hereinafter called the vendor, of the first part, and — of —, hereinafter called the purchaser, of the second part.

WITNESSETH that in consideration of the sum of — dollars now paid by the purchaser to the vendor (the receipt whereof is hereby acknowledged) the vendor hereby gives to the purchaser an option irrevocable within the time for acceptance herein limited, [or, the sole and exclusive option] to purchase, free from encumbrances, all that certain parcel of land situate, etc.

The purchase price of the said property shall be the sum of — dollars, which shall be paid in cash on the acceptance of this option [or, the sum of — dollars in cash, — dollars on the — day of —, and — dollars on the — day of —, or as the case may be.]

[Provided that neither the signing of this contract for purchase, nor the payment of any instalment herein provided

shall bind the purchaser to pay the other instalments, but he shall always be at liberty to cancel and rescind the contract completed by such signature or payments by forfeiting the payments already made in respect thereof, and upon such cancellation he shall not be in any way liable or responsible for any further payments, nor for any damages for failure to carry out the said contract.]

Provided that if the purchaser fail or neglect to comply with the stipulations or provisos herein contained, or any of them, the vendor may, at his option, rescind this agreement on — days' notice to be given by a letter delivered to the purchaser or mailed postage prepaid and registered addressed to the purchaser at —, and upon the expiry of the time limited by the said notice, the vendor may forthwith repossess himself of the said property [and of all work done thereon, without making any compensation therefor to the purchaser].

[If a substantial sum be paid for the option or to bind the bargain add, if desired, the following: The sum of — dollars paid by the purchaser to the vendor as part consideration for the giving of this option shall, upon the completion of this agreement, be allowed as part payment of the purchase money.]

The option hereby given shall be open for acceptance up to but not after the — day of — 19—, and may be accepted by a letter delivered to the vendor, or mailed postage prepaid and registered addressed to the vendor at —.

The vendor shall not be bound to produce any abstract of title, or any deeds, copies of deeds or any other evidences of title except such as are in his possession.

The purchaser shall search the title at his own expense, and shall have — days from the date of acceptance to examine it and shall be deemed to have accepted the title except as to any written objections made within that time. If any objection be made within that time, the vendor shall have a reasonable time to remove it, but if he be unable or unwilling to do so, he may, notwithstanding any intermediate correspondence, cancel the contract and return the deposit, and shall not be liable to the purchaser for any expenses incurred by him.



All adjustments shall be made to the date of the transfer of possession. Time shall be of the essence of this agreement.

This agreement shall enure to the benefit of and be binding also on the heirs, executors, administrators and assigns of the parties hereto respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### OPTION OF PURCHASE OF LAND.

(Short form.)

AGREEMENT made this — day of — 19—, between — of —, —, hereinafter called the vendor, of the one part, and — of —, —, hereinafter called the purchaser of the other part.

WHEREAS the vendor alleges that he is the owner of [*describe land*] containing [about] — acres.

NOW THIS AGREEMENT WITNESSETH that the vendor, in consideration of the sum of [five] dollars (*f*), (the receipt whereof is hereby acknowledged) hereby offers and agrees to sell to the purchaser, his heirs or assigns, free from encumbrances, the said lands [or such part thereof as may be required by the grantee] for the sum of — dollars, [*or*, at the rate of — dollars per acre] at any time before the — day of — 19—. This offer to be irrevocable until the said last mentioned date. This offer, if accepted before the said date, shall thereupon constitute a binding contract of purchase and sale; all adjustments to be made to date of transfer; the purchaser to examine the title at his own expense, the vendor not to be bound to produce or shew any evidences except such as are in his possession. The purchaser to make objections and requisitions within — days after acceptance, and title to be deemed accepted except as to any objection or requisition made within that time, and if any objection to title

(*f*) In a unilateral agreement, such as an option usually is, it is advisable that some real and substantial consideration should pass, for a seal will not supply the place of a real consideration if it is proved that none actually passed. In a suit for specific performance equity will enquire into the consideration of a contract, no matter what its form may be—*Crandall v. Willig* (1897) 166 Ill. 233. See also article on Options, 36 Canada Law Journal (1900), p. 521.

be made which the vendor is unwilling to remove he may rescind this agreement.

This offer may be accepted by a letter delivered to the vendor, or mailed postage prepaid and registered, addressed to the vendor at —.

Time shall be of the essence of this contract.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### OFFER OF EXCHANGE OF LAND.

I, —, of the — of — in the county of —, —, make — of the — of — in the county of —, —, the following offer, that is to say: In consideration of the sum of [five] dollars to me paid by the said —, the receipt whereof I hereby acknowledge, I hereby agree to exchange my property situate in the — of —, and which may be described as follows, —, for the following property, namely: [*Give description of property sufficient to identify it.*]

Neither of us to furnish any abstract of title, title deeds, copies of deeds, or proofs or evidences of title not in his possession; each of us to search the other's title at his own expense. Interest, rent, insurance premiums and taxes to be adjusted between us to date of transfer.

This offer to be good for — days only, and if accepted within that time, all deeds, agreements and transfers to be completed and handed over within — days from date of acceptance. Objections to title to be made in writing within — days, otherwise title to be considered accepted. If either party finds the title of the other unsatisfactory he may rescind this agreement.

Time to be of the essence of this offer.

AS WITNESS my hand this — day of — 19—.

WITNESS:

## ACCEPTANCE OF OFFER.

I, —, above named, hereby accept the above offer, and agree to carry out the terms and conditions therein contained.

AS WITNESS my hand this — day of — 19—.

WITNESS:

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## AGREEMENT FOR EXCHANGE OF LAND.

AGREEMENT made this — day of — 19—, between — of —, of the first part, and — of —, of the second part.

WHEREAS the party of the first part is the owner in fee simple of all that certain parcel of land situate, etc., and the party of the second part is the owner in fee simple of all that certain parcel of land situate, etc.; and whereas the said parties have agreed to make an exchange by way of mutual sale and conveyance of their said respective properties.

NOW THIS AGREEMENT WITNESSETH that the party of the first part shall, in consideration of the sum of — dollars, sell and convey to the party of the second part the said described land of the party of the first part, and the appurtenances thereof, in fee simple and free from all encumbrances, the consideration in the conveyance to be expressed as being — dollars and not as an exchange of land;

And that the party of the second part shall, in consideration of the sum of — dollars, sell and convey unto the party of the first part the said described land of the party of the second part, with the appurtenances thereof, in fee simple and free from all encumbrances, the consideration in the conveyance to be expressed as being — dollars and not as an exchange of land.

The said land belonging to the party of the [first] part being considered to be of greater value than the said land belonging to the party of the [second] part by the sum of — dollars, the party of the [second] part shall, upon the execution of the said conveyances, pay to the party of the [first] part the sum of — dollars, the difference in value of the said lands.

Each party to be allowed ten days to investigate the title of the other's property. If during that time he makes any objection to the title which the other is unable or unwilling to remove, such other may, by notice in writing to the objecting party, rescind this agreement. Neither party shall be required to furnish the other with any abstract of title, deeds, copies of deeds or evidences of title not in his possession, and each one is to examine the title of the other at his own expense.

The said exchange shall be completed at the office of — at —, when each of the said parties shall, by deeds in the usual statutory form, convey the said land belonging to him unto the other party.

Each of the said parties shall be entitled to the possession and to the receipt of the rents and profits of the lands hereby agreed to be conveyed to him on and from the — day of — 19—, and all adjustments of income and outgoings shall be made to that date.

If from any cause whatever the said respective conveyances shall not be completed on or before the said — day of —, interest at the rate of — per cent per annum upon the sum to be paid for equality of value, as aforesaid, shall be paid by the party of the [second] part from the said day until the completion of the said conveyances.

Time to be of the essence of this agreement.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## PARTITION AGREEMENT

BETWEEN TWO TENANTS IN COMMON.

AGREEMENT made this — day of — 19—, between — of —, of the one part, and — of —, of the other part.

WHEREAS the parties hereto are seised as tenants in common in fee simple of the lands described in the schedule hereto, and shown on the plan hereto annexed;

AND WHEREAS the said parties have agreed to make partition thereof between them as hereinafter mentioned, so that their respective portions may thenceforth be held in severalty;

NOW THIS AGREEMENT WITNESSETH that the said parties, for themselves and their respective heirs, executors and administrators, hereby mutually agree that they severally will on or before the — day of — next make partition of the said lands between them, and that such partition shall be carried out according to the valuation of — of — [land surveyor], and that they will severally be bound by his decision and award, which shall be made and delivered in writing on or before the — day of — next; and also that they will on or before the — day of — next execute mutual conveyances to each other, their heirs or assigns, of such part or parts of the said lands as shall be so awarded and allotted to them respectively, provided the said surveyor shall have then made his award, but, if not, within — days next after the making and delivery thereof; and also that in case it shall be found impracticable or disadvantageous to make such partition so that one part shall be equal in value to the other part, then the party having the larger portion in value shall pay to the other of them such a sum as shall be awarded by the said surveyor as an equivalent thereto, which shall be paid on the execution of such conveyances as aforesaid; and also that the costs and expenses of and attending the said survey and partition and of the said conveyances (as well of, and incidental to, the preparation and execution of this agreement,) shall be borne by the said parties in equal moieties.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## AGREEMENT FOR POSSESSION OF LAND

### BEFORE CONVEYANCE OF TITLE.

AGREEMENT made this — day of — 19—, between — of —, hereinafter called the vendor, of the one part, and — of —, hereinafter called the purchaser, of the other part.

WHEREAS by a contract in writing between the parties hereto, dated the — day of — 19—, the vendor agreed to sell, and the purchaser agreed to purchase, the land and buildings therein described; and whereas some delay is likely to occur in

completing the said sale, and the purchaser is desirous of taking immediate possession of the said lands.

NOW THEREFORE the vendor hereby agrees that he will, on the — day of — 19—, deliver up to the purchaser the possession of the said land as fully as if the conveyance thereof had been executed; that the purchaser shall be at liberty to make in a proper and substantial manner all such alterations in, and additions to, the said buildings as he shall require, but subject in all respects to the approbation of the vendor, and so that the value of the land or buildings shall not be impaired.

Provided that if, for any reason, the said sale shall not be completed, the purchaser shall re-deliver possession of the said land to the vendor, who shall not be liable for the value of any alterations or additions made by the purchaser to the buildings thereon [*or as may be agreed*].

And it is hereby agreed that the vendor shall receive the rents and profits of the property until the completion of the said sale [*or as may be agreed*]. \*

And it is further agreed that such taking of possession shall not be deemed a waiver of the contract of sale, nor in any manner affect the rights of the parties under it; that such taking of possession shall not be deemed an acceptance of the title to the said land, but shall be considered as conditional upon, and without prejudice to, the due performance of the said contract in all respects.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## AGREEMENTS—MISCELLANEOUS.

### AGREEMENT.

(General form.)

AGREEMENT made this — day of — 19—, between — of the — of — in the [county] of —, — [occupation], of the one part, and — of the — of — in the [county] of —, —, of the other part.

WHEREAS, [Insert recitals, if any].

[NOW THIS AGREEMENT] WITNESSETH that [in consideration of — (a)] the parties hereto for themselves, their [heirs (b)], executors, administrators and assigns, respectively, mutually covenant and agree as follows:

*When more than two parties covenant, substitute for the above,* WITNESSETH that in consideration of [the premises and of] [one] dollar now paid by each of the parties hereto to the other of them respectively, they, the parties hereto, for themselves, their and each of their [heirs,] executors and administrators, do hereby respectively covenant and agree with the other of them, his [heirs,] executors, administrators and assigns, as follows:

That [Insert particulars of agreement].

IN WITNESS (c) whereof the said parties have hereunto set their hands [and seals].

[SIGNED, SEALED AND DELIVERED (c) }  
in the presence of —.] }

(a) If an instrument is not under seal, the actual consideration should be stated; but if it is under seal the actual consideration need not usually be mentioned, as the seal is said to "import" consideration, or in other words, that prima facie an actual consideration has passed, and evidence that no consideration actually passed must be given before a court would set aside, on the ground of absence of consideration, an instrument under seal. It is usual to state a nominal consideration,—e.g. one dollar—even in instruments under seal.

(b) In instrument relating to real property the word "heirs" should be inserted.

(c) For special forms of attestation, and testimonium clauses, see Appendix A.

# ADOPTION OF CHILD

## WITH AGREEMENT TO SETTLE PROPERTY ON IT.

THIS INDENTURE made the — day of — 19—, between [parents] of —, hereinafter called the parents, of the one part, and — and — [adopting parties] of —, hereinafter called the adopting parties, of the other part.

WHEREAS the adopting parties, having no child of their own, are desirous of adopting a child to be brought up and educated by them.

AND WHEREAS the parents have an infant son [or, daughter] who was born on the — day of — 19—, and is hereinafter referred to as the infant.

AND WHEREAS the parents are about to leave [Canada] for —, and being satisfied that the adopting parties are fit persons to have the custody of the infant and that the arrangement hereinafter contained will be for the advantage of the infant, they have agreed to permit the infant to be adopted by the adopting parties upon the terms hereinafter contained.

NOW THIS INDENTURE WITNESSETH that it is hereby agreed and declared as follows:

1. The infant shall be permitted to live with and to be under the care of the adopting parties and to be educated and brought up by them at their expense.

2. The infant has been baptized a member of the — Church [or, religious body] and shall be brought up as a member of that church [or, body].

3. The adopting parties undertake at their own expense to give the infant a thoroughly good education suitable to their own rank in life, and properly to maintain the infant, and at all times during his [or, her] minority to furnish him with all things necessary or suitable for a person of his age in such rank as aforesaid.

4. The said [one of the adopting parties] hereby agrees to settle in the manner hereinafter mentioned the property specified in the schedule hereto, and until such settlement shall be made he hereby declares that he will hold the said property as trustee upon the like trusts.



5. The trusts upon which the said property shall be settled shall be as follows, viz:

(a) Upon trust to pay the income thereof to the adopting parties and the survivor of them during the infancy of the infant.

(b) If the parents or either of them or any other person as guardian or next friend of the infant shall seek (either effectually or otherwise and whether by legal process or in any other manner) to remove the infant from the care and custody of the adopting parties or the survivor of them during his infancy, or to interfere with the reasonable discretion of the adopting parties or the survivor of them, in relation to the maintenance and education of the infant, then and in such case upon trust to pay and transfer the said property to the said *[adopting party who settles it]*, his heirs, executors, administrators or assigns, absolutely.

(c) But if neither of the parents nor any other person as guardian or next friend of the infant shall seek to remove the infant from such care and custody or to interfere with the reasonable discretion of the adopting parties, or the survivor of them as aforesaid, then and in such case upon the infant attaining the age of twenty-one years the said property shall be held upon trust to pay the income thereof to the infant during his life *[or, if a female, for her separate and inalienable use]*.

(d) And after the death of the infant the said property shall be held upon such trusts and to and for such ends, intents and purposes as the infant and the adopting parties, or the infant and the survivor of the adopting parties, shall, by deed, jointly appoint (*d*), and in default of any such appointment, and subject to any such if made, upon trust for such persons or person and for such interests as the infant shall, by [deed,] will or codicil appoint, and in default of any such appointment as aforesaid, and subject to any such as may be made, in trust for the said *[adopting party who agrees to settle]*, his heirs, executors administrators or assigns, absolutely.

6. If both the parents shall die in the lifetime of the adopting parties or of the survivor of them and during the minority

(*d*) This enables the property to be re-settled on the marriage of the infant with the sanction of the adopting parties or the survivor of them.

of the infant the adopting parties and the survivor of them shall have the same right to the custody of the infant during his minority as they would have had if they had been duly appointed guardians of the infant. But if the parents or either of them survive both the adopting parties then the parents or the surviving parent shall thenceforth be entitled to the custody of the infant during his minority, but the death of the adopting parties during the minority of the infant shall not prejudice the beneficial interest of the infant in the scheduled property under the provisions hereinbefore contained.

7. The parents shall at all times hereafter have access to the infant and shall have all the rights of parents with respect to him, subject to the stipulations hereinbefore contained.

IN WITNESS, etc.

*[Signatures and seals of all parties.]*

SCHEDULE ABOVE REFERRED TO.

*[Here set out a description of the property to be settled.]*

## ADOPTION OF CHILD.

*(Another form.)*

AGREEMENT made this — day of — 19—, between — of —, hereinafter called the mother [*or, father*], of the first part, and — of — [*and —, his wife*], of the second part.

WHEREAS the said — is the [*mother*] of [*name of child*], a [*male*] minor child known by the name of —, who was born on the — day of — 19—.

AND WHEREAS the mother is unable and unwilling by reason of her poverty to maintain, support and educate the said child in a proper and suitable manner [*or as the facts may be*], and the parties of the second part are willing, with the consent of the mother, to adopt the said child subject to the conditions herein contained.

NOW THIS AGREEMENT WITNESSETH that in consideration of the premises and of one dollar now paid by the parties of the second part to the mother, she, the mother, hereby grants and assigns to the parties of the second part all her rights to the possession, custody, control and care of the said child, and

all right, profit and advantage to be derived from the custody and possession of the said child until he shall attain his majority or marry under that age.

The mother hereby appoints the parties of the second part during their lives [and after their respective deaths the person or persons nominated in that behalf as hereinafter mentioned] to be the guardians of the person and estates of the said child until he shall attain the age of 21 years or marry under that age. And the mother hereby agrees not to revoke the said appointment or appoint any other person to be a guardian of the said child.

And the parties of the second part hereby adopt the said child and covenant and agree with the mother that, until such time as the said child attains the age of 21 years or marries under that age, they will maintain, board, lodge, clothe and educate the said child in a manner suitable to the station of the parties of the second part [*or*, suitable to the station of the said child] to the same extent and in the same manner as if the said ——— was their own lawful child.

And the parties of the second part covenant with the mother that they will at their own cost and at the cost of the survivor of them provide the said child with all necessities, and discharge all debts and liabilities which the said child may incur for necessities, and will indemnify the mother against all actions, claims and demands in respect thereof [and that they will bring up the said child and cause it to be instructed in the principles of the ——— religion].

In the event of the death of either of the parties of the second part before the said child attains the age of 21 years or marries under that age, the survivor of the parties of the second part may, by deed or will, nominate and appoint any person or persons from and after the decease of such survivor to be guardian or guardians of the said child, and in such event the mother shall do and execute all such acts and things as shall be reasonably required for confirming such nomination and more effectually appointing the person or persons so nominated to be the guardian or guardians of the person and estates of the said child.

[*Or, instead of the last paragraph,* Provided and it is hereby expressly agreed that if at any time before the said child attains the age of 21 years or marries under that age the parties of the second part should die or become incapable of carrying out, or neglect to carry out duly and regularly all and singular the various obligations imposed on them by these presents, the mother reserves the right to resume her custody and control of the said child, or of taking such other measures for securing the rights of the said child as she may be advised, and without being liable for any expense incurred previously thereto by the parties of the second part or either of them on behalf of the said child.]

And the mother covenants and agrees that she will not, nor shall any person claiming under her henceforth, interfere with or disturb in any way the right of the parties of the second part to the possession, custody and control of the said child or the right to direct the training, management or education, [religious or otherwise,] of the said child, or in any way lay claim to such custody or control. Provided that the mother shall have access to the said child [once in each week, *or as may be agreed*].

IN WITNESS, etc.

SIGNED, SEALED, etc.

### APPRENTICESHIP AGREEMENT.

THIS INDENTURE made the — day of — 19—, between — [father] of —, hereinafter called the father, of the first part; — [apprentice] son of the said —, hereinafter called the apprentice, of the second part; and — [master] of —, hereinafter called the master, of the third part.

WITNESSETH as follows:

The apprentice of his own free will and with the consent of the father, hereby binds himself to serve the master as his apprentice in his trade of — for the term of — years from the date hereof [*or, until the — day of — 19—, when the apprentice shall have reached the age of 21 years*].

In consideration of the sum of — dollars paid to the master by the father (the receipt whereof the master hereby acknow-

ledges) the master covenants with the father and the apprentice and each of them severally as follows:

1. That he will accept the apprentice as his apprentice during the said term, and will during the said term to the best of his power, skill and knowledge instruct the apprentice or cause him to be instructed by the best available ways and means in the art, [trade or business] of a —, now carried on by the master at — and in everything relating thereto.

2. That he will pay to the father, [or, to the apprentice] the sum of — dollars [monthly] during the first year of the said term; the sum of — dollars [monthly] during the second year of the said term; the sum of — dollars [monthly] during the third year thereof; the sum of — dollars [monthly] during the fourth and each subsequent year of the apprenticeship hereby created.

3. [That he will provide the apprentice during the said term with good and sufficient food, lodging, washing and medical attendance, and will send him to a school for instruction in reading, writing and arithmetic, and other common studies, during — months in each and every year until he shall reach the age of — years, and provide him with proper and sufficient books, or, shall allow the apprentice to attend the public school in the town or school section in which he resides, — months in every year during the said term.]

In consideration of the premises the father covenants with the master as follows:

1. That the apprentice shall, during the said term, truly and faithfully serve the master as his apprentice in the said trade at —, aforesaid, and at any other place where he may, during the said term, carry on the said trade, and shall keep his business secrets and obey his lawful commands, and shall not absent himself from the master's service during business hours, [or, without the leave of the master] and shall not do, or knowingly suffer any damage to be done to the goods, moneys or other things which may be put into his custody or care and shall not embezzle or waste them or lend or dispose of them to any one without the master's consent, and shall not gamble with cards or dice or play at unlawful games, or frequent hotels or bar rooms, but in all things, as a faithful apprentice, behave himself towards the master and his family, servants and work-people.

2. That the father will, during the said term, provide the apprentice with suitable food, clothing and, in case of sickness, with medical attendance, etc. [*as may be agreed*].

3. That the master may deduct, from time to time, out of the wages to be paid to the apprentice as aforesaid, any sums of money which may be reasonable for any loss of time occasioned by the absence, sickness or other incapacity to work of the apprentice, and also for any loss which the master may sustain by reason of the negligence or misconduct of the apprentice.

4. That if the apprentice shall, at any time during the said term, be wilfully disobedient to the lawful orders or commands of the master, or be slothful or negligent, or shall grossly misbehave himself towards the master or his family then, and in any such case, the master may discharge the apprentice from his service [provided that in such case the master shall repay to the father the sum of — dollars for every complete year of the said term which shall then be unexpired].

In this agreement the term "the master" shall include and mean the said — [*master*] and the executors and administrators of the said — [*master*] as long as he or they shall continue to carry on the trade or business of — now carried on by the said — [*master*].

IN WITNESS, etc.

SIGNED, SEALED, etc.

## ARTICLES OF CLERKSHIP

TO A SOLICITOR.

(*Form approved by Law Society of Upper Canada.*)

ARTICLES (*e*) OF AGREEMENT made (in duplicate) the — day of — 19—, between A.A. [*the father or guardian*] of the — of — in the county of —, —, of the first part, (*f*) B.A. [*the clerk*], of the same place, son [*or as the case may be*] of the said A.A., of the second part, and S.S. [*the solicitor*] of —, one

(*e*) Articles of clerkship must not be sent to the Secretary of the Law Society, but must be filed in the Central Office of the Court at Os-  
goode Hall, Toronto, within three months from the date of execution,  
otherwise the term of service will date from date of filing articles.

(*f*) Where the person about to be articulated has attained his majority the father or guardian is not a necessary party to the instrument.

of the Solicitors of the Supreme Court of Judicature for Ontario, of the third part.

WITNESS that the said B.A. of his own free will [and with the consent and approbation of the said A.A., testified by his execution of these presents] hath placed and bound himself, and by these presents doth place and bind himself, clerk to the said S.S., to serve him from the day of the date hereof up to the day on which he shall be admitted as a student-at-law or entered as an articulated clerk, whichever shall first happen in accordance with the rules of the Law Society, and during and until the full end and term of — years from the day of his so being admitted or entered then next ensuing.

And the said A.A. doth hereby for himself, his heirs, executors and administrators, covenant with the said S.S., his executors, administrators and assigns, that the said B.A. shall and will well, faithfully and diligently serve the said S.S. as his clerk in the practice or profession of a solicitor of the Supreme Court of Judicature for Ontario from the date hereof, during and until the end of the hereinbefore mentioned term.

And that the said B.A. shall not, at any time during such term, cancel, obliterate, injure, spoil, destroy, waste, embezzle, spend or make a way with any of the books, papers, writings, documents, moneys, stamps, chattels or other property of the said S.S., his executors, administrators or assigns, or of his partner or partners, or of any of his clients or employers.

And that in case the said B.A. shall act contrary to the last mentioned covenant, or if the said S.S., his executors, administrators or assigns, or his partner or partners, shall sustain or suffer any loss or damage by the misbehaviour, neglect or improper conduct of the said B.A., the said A.A., his heirs, executors or administrators, shall indemnify the said S.S. and make good and reimburse him the amount or value thereof.

And further, that the said B.A. will at all times keep the secrets of the said S.S. and his partner or partners, and will at all times during the said term readily and cheerfully obey and execute his or their lawful and reasonable commands, and shall not depart or absent himself from the service or employ of the said S.S. at any time during the said term without his consent first obtained, and shall from time to time, and at all times

during the said term, conduct himself with all due diligence, honesty and propriety.

And the said B.A. doth hereby covenant with the said S.S. his executors, administrators and assigns, that he the said B.A. will truly, honestly and diligently serve the said S.S. at all times during the said term, as a faithful clerk ought to do, in all things whatsoever, in the manner above specified.

In consideration whereof and of — paid by the said A.A. (the receipt whereof the said S.S. doth hereby acknowledge) the said S.S. for himself, his heirs, executors and administrators, doth hereby covenant with the said B.A. that the said S.S. will accept and take the said B.A. as his clerk;

And also that the said S.S. will by the the best ways or means he may or can, and to the utmost of his skill or knowledge, teach and instruct, or cause to be taught and instructed, the said B.A. in the said practice or profession of a solicitor of the Supreme Court of Judicature for Ontario, which the said S.S. now doth or shall at any time hereafter during the said term use or practise;

And also will at the expiration of the said term use his best means and endeavours, at the request, costs and charges of the said A.A. and B.A. or either of them to cause and procure him, the said B.A., to be admitted as a solicitor of the Supreme Court of Judicature for Ontario, provided the said B.A. shall have well, faithfully and diligently served his said intended clerkship.

IN WITNESS whereof the parties to these presents have hereunto set their hands and seals, the day and year first above mentioned.

SIGNED, SEALED AND DELIVERED  
by the above named parties  
in the presence of

AFFIDAVIT OF EXECUTION  
OF ARTICLES OF CLERKSHIP.

Province of Ontario, } I, —, of the — of —, in the  
County of —, } county of —, —, make oath  
To Wit: } and say:

1. That I was personally present and did see the within



instrument and duplicate thereof duly signed, sealed and executed by — [one of] the parties thereto.

2. That the said instrument and duplicate were executed at —.

3. That I know the said parties.

4. That I am a subscribing witness to the said instrument and duplicate.

5. That the said instrument and duplicate were executed as aforesaid on the — day of — 19—.

SWORN, etc.

### AUTHOR AND PUBLISHER.

#### AGREEMENT FOR PUBLISHING ON TERMS OF DIVISION OF PROFITS.

THIS AGREEMENT made the — day of — 19—, between — of —, hereinafter called the author, of the one part, and — and —, carrying on business as publishers and booksellers in the — of —, under the name and firm of “— & Co.,” hereinafter called the publishers of the other part.

WITNESSETH that in consideration of the mutual agreements and undertakings herein contained the parties hereto covenant and agree each with the other as follows:

The author shall furnish the publishers with a fair manuscript for the [first] edition of a work written by him, [to be] entitled —, and shall superintend the printing thereof and carefully correct the proofs as they shall be furnished him; the first manuscript to be delivered to the publishers not later than the — day of — 19—.

The publishers shall print the said work [*or*, procure the said work to be printed] as manuscript shall be furnished them by the author, and shall bring out and publish the said work [and the illustrations thereof] in a proper style (*g*) [*or*, in a style satisfactory to the author] in [quarto] size, and shall bind the

(*g*) In the absence of express stipulation, the publisher, under a half profit agreement, has been held entitled to fix the selling price, choose the embellishments, and generally control the publication (*Reade v. Bentley*, 1857, 3 K. & J. 271).

said work in [*as may be agreed*], and the retail price per copy of the said work shall be [not less than] — dollars.

The publishers shall keep the market fully supplied with the said work and shall enter it in their trade lists and advertise it in the manner and to the extent that the parties hereto deem expedient, and shall use their best endeavours to sell the said work, and they shall defray the expenses of paper, printing and advertising and account to the author therefor. And the publishers shall take upon themselves the risk arising from bad debts, and otherwise, attending the sales. When the expenses of publication, advertising, etc., hereinbefore agreed to shall have been repaid to the publishers by sales of the said work the profits of the said work shall be divided in [equal moities] between the author, or his legal representatives, and the publishers.

The said edition shall consist of — copies only, and the publishers shall account to the author for all copies sold or delivered out of the said number, giving credit only for the trade sale price they shall charge to booksellers or agents, who shall be allowed a commission of — per cent on all copies sold. The publishers shall make quarterly returns of all copies sold during the previous quarter, and such accounts shall be made up to the last days of the months of March, June, September and December in each year, and the share of profits, if any, due to the author shall be paid him before the fifteenth day of the month then next ensuing.

The publishers shall obtain a copyright of the said work immediately upon publication thereof, and the copyright shall be the property of the publishers (*h*), or,

Immediately upon publication of the said work the publishers shall furnish the author with three bound (*i*) copies thereof for the purposes of copyright, and the author shall thereupon obtain a [Canadian] copyright of the said work,

(*h*) It should always be expressly stated who is to hold the copyright, for it has been held that, where no mention of the copyright was made, a half profit agreement did not import a transfer of the copyright to the publisher (*Reade v. Bentley*, 1857, 3 K. & J. 271).

(*i*) The Rules of the Department of Agriculture require that these copies be furnished either in board covers or full bound. One copy is retained in the office of the Registrar of Copyrights at Ottawa, another is deposited in the Library of the Parliament of Canada, and the third in the British Museum.

which copyright shall remain the exclusive property of the author (*h*).

The author shall be entitled to — copies of the said work, free of charge; which copies shall be bound in — and shall be delivered to the author as soon as the work is published.

[The author shall be entitled to obtain copies of the said work from the publishers at the trade price of the work, and he may dispose of such copies in whatever manner he sees fit, except —.]

If at the end of — years the publishers shall not have disposed of the said — copies then, notwithstanding anything herein contained, the author or his assigns, owners for the time being of the copyright, shall be entitled to arrange for the publication of a new edition, and the publishers may thereupon and thereafter dispose of the said remaining copies in such manner and at such price as they deem best, and shall account to the author or his assigns for all such copies. [Provided that the author shall receive not less than — dollars for each copy so sold.]

If a further edition [or editions] of the said work shall be required the author shall have the refusal in every case of writing [or editing] such new edition upon such terms as may then be mutually agreed upon.

This agreement shall enure to the benefit of and be binding upon the successors [and assigns] of the publishers (*j*).

IN WITNESS, etc.

SIGNED, SEALED, etc.

(*j*) The contract between an author and his publisher is a personal one and, in the absence of agreement, cannot be assigned (*Hole v. Bradbury*, 1879, 12 Ch. D. 886), and properly so, since each party presumably relied on the personal skill or reputation of the other (*Macgillivray on Copyrights*, p. 227). It has been held that a half profit agreement could not be assigned by a publisher's firm to a firm which had succeeded to their business, but which contained none of the partners of the original firm (*Hole v. Bradbury*, *ante*).

# AUTHOR AND PUBLISHER.

## AGREEMENT FOR ROYALTY ON ALL COPIES OF BOOK SOLD.

AGREEMENT made the — day of — 19—, between — of the — of —, hereinafter called the author, of the first part, and — of the — of — and — of the — of — partners, carrying on business as publishers and booksellers in the — of — under the name, style and firm of — & Co., hereinafter called the publishers, of the second part.

WHEREAS the said — is the author of a certain book or literary work entitled —, which the publishers have agreed to publish upon the terms hereinafter set forth.

NOW THIS AGREEMENT WITNESSETH that in consideration of the mutual agreements and undertakings herein contained, the parties hereto covenant and agree as follows:

The author shall deliver to the publishers a fair manuscript of the said work entitled —, and superintend the printing and correct the proofs thereof in a proper manner, and obtain [or, permit the publishers to obtain] a [Canadian] copyright of the said work, which copyright shall be the property of [*as may be agreed*], and the publishers shall have the exclusive right to publish the said work for and during the time for which the said copyright, or any renewal thereof, shall be in force [or, for the term of — years from the date of publication].

The price of the book shall be not less than — dollars, and the edition shall consist of — copies only.

The publishers agree to stereotype, [illustrate,] print, manufacture in the best style suited to the work, and publish the said work; to keep the market fully supplied with the said work and advertise it as much as in their discretion seems expedient, to enter it in their catalogues and trade lists, and to use their best endeavours to sell it during the time for which the said copyright, or any renewal thereof, shall be in force.

The publishers shall make [semi-annual] returns to the author on the — days of — and — respectively in each year, containing a statement of all sales of the said work made by the publishers for, and during, the [six] months previous to each of the said days, and pay to the author or his legal repre-

sentatives on the said — days of — and — in each year, for the use of the said copyright, — per cent of the retail price of all copies of the said work sold.

[Provided, however, that no sum shall be due to the author for royalty until at least — copies of the said work have been sold; but as soon as the said number of copies are sold, the said royalty shall immediately become due and be payable.

Provided that all copies of the said work given to editors or reviewers, according to the custom of the publishers' trade, shall be free from the charge for royalty, and that the publishers shall pay nothing to the author therefor; and that the stereotype and other plates made by the publishers, and used in printing or illustrating the said work, shall be the property of the publishers.

The publishers also agree to give to the author, free of charge, — copies of the said work, bound in —, as soon as the said work is published.

This agreement shall enure to the benefit of and be binding upon the successors [and assigns] of the publishers (*k*).

[For other special covenants, see preceding forms.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

## AUTHOR AND PUBLISHER.

### AGREEMENT FOR ROYALTY.

(Another form.)

AGREEMENT made the — day of — 19—, between — of —, hereinafter called the author, of the first part, and — of —, hereinafter called the publisher, of the second part.

WHEREAS the said — is the author of a certain book or work entitled —, which the publisher has agreed to publish upon the terms hereinafter set forth.

NOW THIS AGREEMENT WITNESSETH that the author, for the consideration hereinafter expressed, hereby agrees that the publisher shall print, publish and sell one edition of — copies of

(*k*) See note (*j*) on p. 86.

the said work, the author reserving to himself the copyright in the said work.

The author agrees that he will furnish the publisher with a fair manuscript of the said work, and will superintend the printing and correct the proofs thereof in a proper manner, and that he will duly register his title as proprietor of the copyright of the said work, and will not print, publish or sell, or authorize any other person to print, publish or sell, any part of the said work until the whole of the said ——— copies have been disposed of by the publishers, provided the said ——— copies are sold within ——— years from the date hereof. The price of the said work to be ——— dollars retail.

And the publisher, in consideration of the aforesaid agreements on the part of the author, hereby agrees that he will pay the author or his legal representatives the sum of ——— per cent upon the retail price of every copy sold of the said work, which sum shall be paid [quarterly] as often as the said copies shall be sold or otherwise disposed of; the publisher rendering to the author an account of sales of the said work on the [first] days of ——— and ——— in each year until the whole edition shall be sold. The publisher also agrees to give to the author, free of charge, ——— copies of the said work, bound in ———, as soon as conveniently may be done after the said work is published.

And the publisher further agrees with the author that he will not print, publish or sell any more than the said ——— copies until authorized in writing by the author or his legal representatives, owners for the time being of the said copyright; it being understood that the license herein contained extends only to one edition, of the number of copies above specified.

This agreement shall enure to the benefit of and be binding upon the successors [and assigns] of the publisher (1).

*[For other special covenants, see preceding forms.]*

IN WITNESS, etc.

SIGNED, SEALED, etc.

(1) See note (j) on p. 86.

## AUTHOR AND PUBLISHER.

AGREEMENT THAT PUBLISHER PAYS A SPECIFIED SUM FOR  
EACH EDITION.

AGREEMENT made this — day of — 19—, between — of —, hereinafter called the author, of the first part, and — & Co., of —, hereinafter called the publishers, of the second part.

WHEREAS the author has written [*or, has agreed to write*] a book to be entitled —, [and which is to be a treatise on —],

Now the parties hereto mutually agree as follows:

The author shall, commencing on the — day of — 19—, furnish the publishers with a fair manuscript of the said book and shall keep them supplied therewith, and shall correct the proofs thereof as soon as furnished him.

The publishers shall print and publish at their own expense a first edition of not more than — copies of the said book, and not more than — copies of each subsequent edition, should such be required, and shall pay to the author or his legal representatives the sum of — dollars for the first edition and — dollars for each subsequent edition, payable — dollars on the publication of the book, — dollars — months thereafter, and the balance of — dollars when — copies have been sold, and shall also furnish the author, free of charge, with — copies of the book, and as many more copies as he may require at the trade price.

If such subsequent editions are required the author shall, without charge, revise the last published edition and correct the proofs as furnished him.

The author shall [permit the publishers to] obtain a copyright of the said book, and the copyright thereof, and of all subsequent editions, shall be the property of the [publishers].

In the event of the death of the author, or his inability or unwillingness to edit any edition, other than the first edition, of the said book, the publishers may employ such editor as they think fit and, after deducting the payments agreed to be paid to such editor, the balance, if any, of the said sum of — dollars or — dollars, as the case may be, shall be paid to the author or his legal representatives.

In case — copies of the first edition of the said book are not sold within — years from the date of publication the publishers may waste or destroy any copies remaining unsold, and shall not then be liable to pay any further sum accruing due under this agreement.

This agreement shall enure to the benefit of, and be binding upon the successors [and assigns] of the publishers (*m*).

IN WITNESS, etc.

SIGNED, SEALED, etc.

# AUTHOR AND PUBLISHER.

## AGREEMENT TO ENLARGE A BOOK FOR A NEW EDITION.

AGREEMENT made the — day of — 19—, between — of —, hereinafter called the author, of the one part, and — of —, hereinafter called the publisher, of the other part.

The author, in consideration of — dollars and other consideration herein named, hereby agrees with the publisher to correct and enlarge the work known as —, to prepare additional notes and to furnish additional manuscript matter for a new edition of the work, and to enlarge the index and make it full and complete.

It is understood and agreed that not more than — copies of the new edition shall be printed, and that the page of the new edition of the work shall be of [the same size as that of the present work, and shall contain an equal amount of matter on each page], and that the additional matter shall enlarge the work not less than — pages, and shall be furnished to the publisher [continuously, *or*, as required by him] commencing on the — day of — next.

The author shall examine and correct the proof-sheets as fast as they are delivered to him, and shall complete the index as soon as may be after all the signatures of the text have been delivered to him for that purpose.

The publisher agrees to print the said work as the matter shall be furnished; to furnish the author with a copy of the

(*m*) See note (*j*) on p. 86.



work by signatures, as each signature shall be worked off, for the purpose of arranging the index; to furnish the author with — copies of the work, bound in —, free of charge, as soon as they can be conveniently furnished; and to pay the author the sum of — dollars [on the day the last proof-sheet is corrected for the press] and — dollars on the — day of — 19—.

This agreement shall enure to the benefit of and be binding upon the successors [and assigns] of the publisher (n).

[For other covenants relating to copyright, new edition, etc., see preceding forms.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### OPTION ON BUSINESS.

(Short form.)

THE UNDERSIGNED hereby agree, in consideration of one dollar and other good and valuable considerations, to sell to C.D. or his assigns, as a going concern, the business carried on by the undersigned, including the property, machinery, materials and supplies used in connection with the business, and also the good-will, trade rights, trade marks, brands, patents, inventions, formulae, recipes, trade-names and patterns owned or controlled by the undersigned, excepting only money in bank and bills and accounts receivable, which are to be and remain the property of the undersigned. All the said property to be at the time of such sale free and clear of all liens, charges, encumbrances, taxes and assessments. The consideration for the said sale to be — dollars in addition to inventory value of stock on hand at the time of transfer.

This option shall expire on the — day of — 19—, unless the said C.D., or his assigns, shall before that time give notice in writing of his acceptance thereof, in which case the transaction is to be completed and the property delivered within — months thereafter, or earlier at the option of —.

It is understood and agreed that, in accepting this option, C.D. assumes no responsibility or liability to purchase the said

(n) See note (j) on p. 86.

property unless C.D., or his assigns, shall elect so to do by written notice, and that, in case of assignment, this instrument and all of its parts and provisions shall enure to the benefit of and be obligatory upon such transferee, and C.D. shall be free from liability therein and thereunder to the same purport and effect as though such transferee had originally been made the purchaser herein.

WITNESS our hands and seals this — day of — 19—.

WITNESS: }  
[Signed] A.B.

### SALE OF BUSINESS

INCLUDING GOOD WILL, STOCK-IN-TRADE, FIXTURES AND  
BOOK DEBTS.

THIS INDENTURE made the — day of — 19—, between  
— of —, hereinafter called the vendor, of the one part, and  
— of —, hereinafter called the purchaser, of the other part.

WHEREAS the vendor has agreed with the purchaser for the sale to him of the good will (*o*), stock-in-trade, fixtures and book debts of the trade or business of a —, carried on by him at — aforesaid, as a going concern, for the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars now paid by the purchaser to the vendor (the receipt whereof is hereby acknowledged) the vendor doth hereby assign unto the purchaser all the interest and good will of his said business of a —, with the stock-in-trade, fixtures, and effects pertaining thereto, as lately carried on by the vendor; and also all the book and other debts now due and owing to the vendor upon, on account or in respect of the said trade or business, and all securities therefor, and also all contracts and engagements, benefits and advantages which have been entered into by the vendor, or to which he is or can be entitled on account or in respect of the said trade or business, and all the assets of the said business as shewn in the books of account thereof.

To hold the same unto the purchaser absolutely, without

(*o*) The sale of good will includes the right to use trademarks belonging to the business (*Shipwright v. Clements* (1871), 19 W.R. 599).

any interruption or disturbance of or by the vendor or any other person claiming through or in trust for him.

And the vendor covenants with the purchaser that the vendor hath now in himself good right to assign the good will, stock-in-trade, fixtures and effects, book and other debts and premises in manner aforesaid, and they shall be enjoyed by the purchaser free from any interruption or disturbance as aforesaid; and also that the vendor shall not either by himself or with any other person do or cause to be done any wilful act or thing to the prejudice of the said trade or business of a —, as heretofore carried on and conducted by the vendor, but will, whenever required by the purchaser, render every assistance and give all necessary evidence for the purpose of recovering or otherwise enforcing payment of all or any of the said trade debts and vesting the absolute ownership thereof in the purchaser; and that he will execute such further assurances as may be requisite for more perfectly and absolutely assigning, transferring and assuring the said debts and every part thereof.

And the purchaser covenants with the vendor that he will at all times hereafter save harmless and keep indemnified the vendor and his estate and effects from and against all losses, costs, expenses and damages which may be incurred by or by reason of any action or other proceeding which shall or may be brought or instituted against the purchaser for or in respect of the said good will, stock-in-trade, effects and premises, or for or in respect of the recovery of the several sums of money which by the said books appear to be due and owing from the vendor in respect of the said trade or business, and also from and against the contracts and engagements to which by the said books the vendor appears to be now liable, and also all interest, costs, expenses, losses, claims and demands on account of the said debts, contracts and engagements respectively, or otherwise in relation to the premises.

And it is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

# SALE OF BUSINESS

## ASSIGNING VENDOR'S INTEREST IN LEASEHOLD PREMISES.

AGREEMENT made this — day of — 19—, between — of —, hereinafter called the vendor, of the first part, and — of —, hereinafter called the purchaser, of the second part.

WHEREAS the said — now carries on the business of — on the premises number —, — street, in the town of —, which premises are held by him under a lease thereof dated the — day of — 19—, made between — of the one part and the vendor of the other part, for a term of — years from the — day of — 19—.

NOW IT IS AGREED between the parties hereto as follows:

1. The vendor shall sell and the purchaser shall purchase the good will, stock-in-trade, fixtures and book debts now being in, upon and about the said premises number —, — street, —, in connection with the said business of a — so carried on thereon as aforesaid.

2. The price to be paid for the said good will, stock-in-trade, fixtures and book debts shall be ascertained by the valuation of two indifferent persons one to be named by the vendor and the other by the purchaser, or in case of their disagreement by an umpire to be chosen by such two indifferent persons, and if either of the parties hereto shall fail to name a valuer within — days from the date hereof, or if the valuer named by either of them shall neglect or refuse to act, then the valuation shall be made by the valuer of the other party alone.

3. The purchaser shall pay to the vendor on the signing hereof the sum of — dollars as deposit and pay the balance of the purchase money immediately the price shall be ascertained as aforesaid. On payment of such balance the said stock, fixtures and book debts in, upon and about the said premises shall be delivered to the purchaser.

4. Immediately upon the payment of the purchase money as aforesaid the vendor shall obtain from the lessor a consent to assign and shall assign to the purchaser the said lease for all the unexpired residue of the said term of — years thereby granted, such assignment to contain all customary clauses and

provisions, and immediately thereafter the purchaser shall be let into possession of the said demised premises for such unexpired residue as aforesaid.

5. The expense of and incidental to the obtaining of such consent and the preparation and completion of the assignment of the said lease shall be paid by the purchaser.

6. The vendor shall not either directly or indirectly carry on or be engaged as principal, partner or servant in the business of a — within a radius of — miles from the said premises, and in case of a breach of this clause he shall pay to the purchaser the sum of — dollars as liquidated damages and not as a penalty.

7. The vendor further agrees that he will not, nor shall any person by his direction or on his account, make any application to or press the debtors to the said business for payment of their debts for the space of — months from the date hereof, but that during such period such debts shall be collected and received by the purchaser who shall account to the vendor for the same on [Saturday] in every week during such — months, and for the considerations aforesaid the vendor hereby constitutes the purchaser his agent for such collection as aforesaid, and the purchaser hereby agrees to use his best endeavours during such period to collect and receive the said debts and that he will account to the vendor for the same, and pay over the amount of the debts collected weekly as aforesaid. And after the expiration of such period of — months the vendor may collect and get in such of the said debts (if any) as are then outstanding, in such manner as he shall think fit.

8. The purchaser may use the name of —, under which the said business is now being carried on, for the period of — years from the date hereof, and the purchaser hereby agrees to indemnify the vendor against all claims and demands which may be made or brought against him by reason of the user of the said name.

9. If the purchaser shall not pay his purchase money at the time above specified, and in all other respects perform the conditions on his part to be performed, the deposit moneys shall be forfeited to the vendor who may thereupon re-sell the property at such time and in such manner and subject to such conditions

as he shall think fit, and any deficiency in price and all charges attending the re-sale shall immediately afterwards be paid by the said — [party of the second part] to the vendor, and in case of non-payment shall be recoverable as liquidated damages.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### AGREEMENT FOR SALE OF GROWING CROP.

AGREEMENT made the — day of — 19—, between — [vendor] of —, hereinafter called the vendor, of the one part, and — [purchaser] of —, hereinafter called the purchaser, of the other part,

WHEREBY it is agreed as follows:

1. The vendor will sell and the purchaser will buy, first, all that crop of [wheat] now standing on a field [describe location] part of the — farm situate at — in the county of —, which field is believed and shall be conclusively assumed to contain — acres; and secondly, all that crop of [barley] now standing on a field [describe location], part of the said farm which field is believed and shall be conclusively assumed to contain — acres.

2. The purchase price shall be — dollars per acre for the wheat and — dollars per acre for the barley, and each crop shall be paid for so soon as any part thereof shall be cut [or as may be agreed].

3. As and when the respective crops shall be ripe they shall be reaped, cut, harvested and forthwith carried away from the fields on which they are respectively growing [but if the purchaser so desire he may stack the said crops on the respective fields where they shall be harvested, and permit them to remain there at his own risk in all respects for the purpose of threshing until the — day of — 19—].

4. For the purposes aforesaid the purchaser shall have full license and authority to enter upon the said several fields where the crops are now growing, with workmen, horses, machines, wagons and implements until the said crops shall be removed therefrom, but in no case later than the — day of — 19—.

5. The several crops shall be harvested and carried away in a husbandlike manner, and the purchaser shall not permit any damage to be done to the fences or gates of the several fields or to anything growing thereon, or to any animals pasturing therein after the crops are cut, and shall make compensation for any such damage.

6. If the purchaser neglects to cut or harvest any of the said crops the vendor may cut, harvest, thresh and make marketable the same, and the expenses of so doing shall be a debt immediately due and payable by the purchaser to the vendor with interest thereon at the rate of — per cent per annum from the date of expenditure to the date of actual payment.

AS WITNESS, etc.,

*[Signatures and seals of both parties.]*

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## AGREEMENT BETWEEN EMPLOYER AND EMPLOYEE

MASTER AND SERVANT, CLERK, OR WORKMAN (p).

AGREEMENT made the — day of — 19—, between — of —, hereinafter called the employer [*or*, master], of the one part, and — of —, hereinafter called the employee [*or*, servant, clerk, etc.], of the other part.

The said — covenants and agrees that he will faithfully, honestly and diligently serve the employer in the capacity of a — in the employer's business [*or*, profession] of a — in the [town] of —, and that he will devote his entire time, labour, skill and attention to such employment and obey the lawful and proper orders and directions of the employer and his partner or partners between the hours of — o'clock in the forenoon and — o'clock in the afternoon, save and except —, and the said hours are to be the hours of said employment.

And in consideration of such service the employer covenants and agrees to pay to the employee the sum of — dollars for and in each and every [week] that the employee shall remain in the employer's service, beginning on the — day of — next.

(p) See also "Apprenticeship Agreement" on p. 79 for special covenants.

Provided that such service may be terminated by either party hereto giving to the other party — days' notice [in writing], or, at the option of the employer, on payment by the employer to the employee of — [weeks] wages [or as may be agreed].

IN WITNESS, etc.

SIGNED, SEALED, etc.

### AGREEMENT FOR HIRE OF FURNITURE.

AN AGREEMENT made the — day of — 19—, between — [owner] of —, hereinafter called the owner, of the one part, and — [hirer] of —, hereinafter called the hirer, of the other part.

WHEREBY it is agreed as follows:

#### *Agreement for hire.*

1. The owner agrees to let and the hirer agrees to hire the furniture, chattels and effects (hereinafter referred to as the said effects) described in the schedule hereto for the period of — months from the — day of — 19—, (hereinafter called the said term).

#### *Delivery.*

2. The said effects shall be delivered by the owner at his own expense at the house of the hirer at [address] on the — day of — next, and the owner or his servants shall, with all due diligence, dispose the said effects in the rooms of the said house in accordance with the directions of the hirer.

#### *Rent.*

3. The hirer shall pay to the owner a rent of — dollars for each month of the said term for the hire of the said effects. Such rent shall be payable monthly on the — day of each month; the first of such payments to be made on the — day of — next.

#### *Repair.*

4. The hirer shall, during the said term keep and maintain the said effects in a good state of repair and condition (reasonable wear and tear excepted) and shall, at the determination of the said term, replace such of the said effects as may be broken



or damaged (otherwise than by reasonable wear and tear), or lost, by others of a similar nature and of equal value [*or*, shall pay to the hirer compensation in respect of any of the said effects as may be broken or damaged [otherwise than as aforesaid] or lost, the amount of such compensation in the event of disagreement between the parties to be determined by arbitration].

*Insurance against fire and burglary.*

5. The hirer shall, during the said term, keep the said effects insured against fire in the joint names of the owner and the hirer in the sum of — dollars in the office of the — Insurance Company or some other office to be approved of by the owner [and shall also keep the said effects insured in the same names against burglary in the sum of — dollars in the office of the — Insurance Company, or some other office to be approved of by the owner] and shall, when requested by the owner, produce the last receipt [*or*, receipts] for the premium [*or*, premiums] for the said insurance [*or*, insurances].

*Hirer to pay rent, taxes, etc.*

6. The hirer shall duly and punctually pay all rent, rates and taxes payable in respect of the premises in which the said effects or any of them shall be during the said term, [and shall, on demand, produce to the owner or his agent the last receipts for such respective payments].

*Hirer not to remove hired goods.*

7. The hirer shall not during the said term remove the said effects or any of them from the said house, or suffer the same or any of them to go out of his possession except with the written consent of the owner.

*Goods not to be fixtures.*

8. The hirer shall not cause or suffer any of the said effects to be affixed to the said house in such a way that they shall become fixtures.

*Inspection.*

9. It shall be lawful for the owner or his agent at all reasonable times to enter the said house for the purpose of viewing the state and condition of the said effects.

*Determination of agreement.*

10. Upon any breach by the hirer of any of the stipulations contained in this agreement, or if any distress or execution shall be issued against the hirer or against the said effects the owner may, without any previous notice, determine this agreement [See also special provisions in general form of "Chattel Mortgage."]

*Effect of determination.*

11. Upon the determination of this agreement, whether by effluxion of time or under the preceding clause hereof, the owner may enter the said house and remove and carry away therefrom the said effects, and for that purpose do all things reasonably necessary for such removal without being liable for any damage caused thereby, and without prejudice to the rights of the owner in respect of any rent or sums of money accrued or accruing due from the hirer under this agreement.

As WITNESS, etc.

[Signatures of owner and hirer.]

SCHEDULE.

[Description of furniture hired.]

HIRE RECEIPT.

AGREEMENT FOR PURCHASE OF AN ARTICLE ON  
THE LEASE SYSTEM.

RECEIVED of — & Co. on lease a [sewing machine] [here describe it by name of maker and number] in good order and condition, valued at — dollars, for the use of which I agree to pay down — dollars, and — dollars on the — day of each and every month for — months from the date hereof.

And it is further agreed that the said — shall remain the property of the said — & Co. until purchased and paid for, and that I acquire no title to the said — until I have paid the sum of — dollars as rent therefor in the manner above specified, when I shall have the privilege and right to purchase the said — by paying — dollars therefor, and it shall then become my property. I also agree not to remove or dispose of the said — without permission of the said — & Co. in writing.

In case of default of punctual payment of the said monthly rental or due fulfilment of any of the agreements or conditions herein contained, the said — & Co. may resume possession of the said —, which I agree to deliver to them when required. And the said — & Co., their agents, successors or assigns, shall have full right and liberty to enter any house or premises where the said — may be, and remove the same without resorting to any legal process.

I also agree to protect said — & Co. against house rent, and to notify them if there is any danger of seizure. I also agree that if I shall become bankrupt, or compromise with my creditors, or part with the possession of the said —, or in case the said — shall be seized or attached as my property, the instalments previously paid shall be forfeited to the said — & Co.

And I also agree to keep the said — insured in the sum of not less than — dollars for the benefit of the said — & Co.

WITNESS my hand this — day of — 19—.

WITNESS:

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### HIRE RECEIPT.

*(Another form.)*

HIRED and received of — & Co., of —, the following articles [*or*, the articles set out in the schedule hereto], which articles are to be used by me —, at —, for the rent and use of which, and for all and any use of other goods previously leased by — & Co. to me — I promise to pay to — & Co. or to their order the sum of at least — dollars per —, and to continue such payments until the sum so to be paid for the use or rent shall equal the sum stated above [*or*, in the said schedule]; and to keep the said articles insured in a sum not less than — dollars, for the benefit of the said — & Co.; and I, the said —, agree not to remove the said articles, or any of them, from the above-named place without the consent of the said — & Co. in writing; and if I fail to pay the said rent as above stipulated, or if I remove or sell the said articles or suffer them to be attached; mortgaged or injured, I thereby

forfeit all right to the said goods, and to the further use of the same, and to all moneys paid; and I further agree and consent that the said — & Co., and their agents and servants, may, at any and all times, enter into and upon any house, room or premises occupied by me, and view and examine all the said articles, and remove them without notice or demand, and without being deemed guilty of any trespass or wrong; and in case of such removal the said — & Co., may forthwith sell the said articles; and in case they shall sell them, or any of them, they shall apply the proceeds, after the payment of the costs and expense of finding, keeping and selling them, to the payment of any rent or moneys due them under this lease; and in case such net proceeds are not sufficient to pay all rent or moneys due the said — & Co., I agree to pay any balance or sum still remaining due to them as back rent or otherwise.

It is expressly understood and agreed that the title to each and all the above articles, and to each and all other goods and articles at any time leased to me, shall remain in — & Co., and that they shall remain absolute owners thereof until the full price shall be paid. But upon full payment to the said — & Co. of the price named in all the leases, and all expenses, with interest on all sums as they become due until paid, at the rate of — per cent per —, then they shall release their claim and right in the goods above leased to me; and as a guaranty fund against any damage to the said goods, and expense of teaming, finding or getting possession of them, I put into the hands of the said — & Co. the sum of — dollars, which sum, or a part of which sum, the said — & Co., if they choose, may apply to my credit on my lease account with them.

I have this day received an exact copy of the above.

Dated at — the — day of — 19—.

IN WITNESS, etc.

#### AGREEMENT AS TO FURTHER PURCHASES.

BY ENDORSEMENT ON THE ABOVE HIRE RECEIPT OR OTHERWISE.

I hereby agree and direct that the goods and chattels hired and received by me of — & Co. this day shall be added to and put on the [within] lease of goods hired by me of them

previously, and upon the same terms and conditions, except and with the further agreement that the money paid this day is exclusively for and on account of the goods hired this day, and that hereafter I will pay to the said — & Co. the sum of — dollars per — for the use of all the said goods and chattels, and that none of them, whether named in the [within] original lease or afterwards added, is to be or become my property until the full amount or price for each and all the same is paid.

Dated at — the — day of — 19—.

IN WITNESS, etc.

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#### CONDITIONAL SALE ORDER.

To [the — Company].

[Place and date.]

Please deliver to me [carriage paid] [describe article], for which I agree to pay — dollars, [here state terms of payment, e.g. — dollars cash on delivery (or, herewith) and the balance to be evidenced by my (three) notes for — dollars each, falling due (monthly) from the date of this contract].

I hereby expressly agree that the right of property in the said [article] shall remain in the — Company until it is wholly paid for, and in case of my failure to meet any one of the said notes at maturity, all of the said notes remaining unpaid shall immediately become due and payable.

No representations or guarantees have been made by the salesman on behalf of the — Company which are not herein expressed.

This order is subject to the approval of the — Company.  
I acknowledge the receipt of a duplicate of this order.

[Signature.]

[Address.]

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#### LIEN NOTE.

This note is given for —.

\$—.

[Place and date.]

On the — day of — 19—, I promise to pay — or order at —, — dollars, with interest at the rate of —

per cent per [annum] both before and after maturity until actually paid.

The title of the property for which this note is given is not to pass, but to remain in the payee of this note until the note is paid, and in case of default in payment the payee shall be at liberty, without process of law, to take possession of and sell the said property and apply the proceeds upon this note after deducting all costs of taking possession and sale.

I acknowledge having received a copy of this note.

WITNESS:

### ASSIGNMENT OF LIEN NOTE AND GOODS

#### BY ENDORSEMENT ON NOTE.

For value received I hereby transfer the within note, and all my rights, title and interest in the goods and chattels for which the said note was given, unto —.

### AGREEMENT BETWEEN MERCHANT AND TRAVELLING SALESMAN.

AGREEMENT made this — day of — 19—, between — of —, and — of —, merchants and co-partners, doing business under the firm name and style of — & Co., of the one part, and — of —, travelling salesman, of the other part.

1. The said salesman shall enter into the service of the said firm as traveller for them in their business of — merchants, for the period of — years from the — day of — 19—, subject to the general control of the said firm.

2. The said salesman shall devote the whole of his time, attention and energies to the performance of his duties as such salesman, and shall not, either directly or indirectly, alone or in partnership, be connected with or concerned in any other business or pursuit whatsoever during the said term of — years.

3. The said salesman shall, subject to the control of the said firm, keep proper books of account, and make due and correct entries of the price of all goods sold, and of all transactions and

dealings of and in relation to the said business, and shall serve the said firm diligently and according to his best abilities in all respects.

4. The fixed salary of the said salesman shall be the sum of — dollars per week for the first year payable by the said firm weekly from the commencement of the said service, on [Saturday] of each week, and — dollars per week for the second year, and — dollars per week for the third year, payable weekly in like manner from the commencement of such respective years.

5. The reasonable travelling expenses and hotel bills of the said salesman, incurred in connection with the business of the said firm, shall be paid by the said firm, from week to week, in addition to the said fixed salary.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### APPOINTMENT OF ORGANIST

##### FOR A CHURCH.

THIS AGREEMENT made the — day of — 19—, between the [board of trustees, *or*, vestry *or*, church wardens, *or as the case may be*], of the parish [*or*, district] of — in the county of —, hereinafter called the trustees of the one part, and [*organist*] of —, hereinafter called the organist, of the other part.

WITNESSETH as follows, that is to say:

1. Until the termination of this agreement as hereinafter provided the organist is to act as organist of the church of [St. —] in the parish [*or*, district] of — aforesaid.

2. The salary of the organist is to be the annual sum of — dollars, to be paid to him by the trustees. The said salary shall be paid [quarterly] on the — days of — and —, the first payment to be made on the — day of — next.

3. Subject to the general control and directions of the trustees, the organist shall have the care and control of the music in the said church.

4. The organist shall play the organ at all services in the said church unless otherwise directed by the trustees, and shall

give the choir musical instruction on such evenings in the week, not exceeding —, and at such times on those evenings as the trustees shall require.

5. The organist may give private lessons on the organ in the said church at such times as may, from time to time, be approved by the trustees, [or, as will not interfere with the services of the said church] the organist paying any extra expense incurred thereby.

6. The organist shall have — weeks holidays in each year, to be taken between the — day of — and the — day of —, or at such other times as shall be mutually agreed between the parties hereto.

7. The organist shall provide and pay a proper substitute, approved by the trustees, to carry out his duties [during his holiday or] if incapacitated by illness from performing his duties.

8. This agreement may be terminated at any time by either party giving to the other — calendar months' notice in writing of his desire to terminate the same.

SIGNED, etc.

[Signatures of both parties.]

### PARTY WALL AGREEMENT.

THIS AGREEMENT made the — day of — 19—, between — of the — of —, —, of the first part, and — of the — of —, —, of the second part.

WHEREAS the said party of the first part claims to be seized in fee simple of lot no. — [give a sufficient description to enable the agreement to be registered], and the said party of the second part claims to be seized in fee simple of the adjoining lot no. — [give description].

NOW THEREFORE the said parties hereby mutually grant and covenant each for himself, his heirs, executors, administrators and assigns, to and with the other, his heirs, executors, administrators and assigns, that either party hereto, or his heirs or assigns, may build a party wall of the thickness required by law [or otherwise, as the case may be] on any part or the whole of the boundary line between the said lands, which the other



party, his heirs and assigns, shall have a right to use as herein provided, the middle line of which shall coincide with the said boundary line, and either party thereto, or his heirs or assigns, may extend in any direction of the said line any wall so built, and may rebuild the same in case of the partial or total destruction thereof, and when any portion of any wall so built, extended or rebuilt, shall be used by the party, or by the heirs or assigns of the party by whom the portion of the wall so used was not constructed, he or they shall pay to the party who constructed the same, or to his heirs, executors, administrators or assigns, one-half of the value, at the time of such use, of the whole thickness of the portion of such wall so used by him or them, and the sum so to be paid shall, until paid, remain a charge upon the land of the party liable to pay the same. And it is agreed that the covenants herein contained shall run with the land, but no covenant herein contained shall be personally binding on any person except in respect of breaches during his or their seisin or title to the said lands.

And it is further agreed that whenever any party wall built under this agreement shall be extended in height, the chimneys previously built in such wall shall be carried up to a proper height, and any injury caused by such extension shall be made good, and such extension of the wall and chimneys shall be at the expense of the party making the extension. And it is agreed that if the parties cannot agree as to any value above mentioned the amount thereof shall be referred to three disinterested persons as valuers, of whom each party hereto, or his heirs and assigns, shall appoint one, and these two valuers shall appoint a third, and the decision of the three said valuers, or of any two of them in writing under their hands shall be binding on the parties hereto, their heirs, executors, administrators and assigns.

And it is further agreed that any wall built by virtue of this agreement shall be of good materials and workmanship, and when built shall be and remain a party wall.

IN WITNESS, etc.

SIGNED, SEALED, etc.

SALE OF PHYSICIAN'S PRACTICE.

AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, doctor of medicine, hereinafter called the vendor, of the one part, and — of the — of — in the county of —, doctor of medicine, hereinafter called the purchaser, of the other part.

WHEREAS the vendor has for many years past exercised his profession of physician and surgeon at —, in the county of —, and is now desirous of retiring from his practice at — aforesaid, and the purchaser is desirous of establishing himself as a physician and surgeon at said —.

NOW THIS AGREEMENT WITNESSETH that the vendor agrees to sell and the purchaser agrees to purchase the said practice, and the good will and benefits thereof, from the — day of — 19—, together with all the fixtures, furniture, medical books, surgical and other instruments and apparatus, and all the drugs, medicines, bottles and other things now used therein, for the sum of — dollars; in confirmation of which purchase the purchaser, upon the execution of these presents, has paid the sum of — dollars by way of deposit, and in part payment of the purchase money.

The vendor further agrees that on the payment of the residue of the purchase money as hereinafter mentioned he will fully and absolutely deliver over and assign to the purchaser, his executors, administrators or assigns, the said practice or business and the good will thereof, for his and their absolute use and benefit; and likewise the full and uninterrupted possession of the office in which the said practice is now carried on by him, together with the fixtures, furniture, books, instruments, apparatus and things now used in and relating to the said practice.

The vendor further agrees that he will introduce and recommend the purchaser to his patients, friends and others as his successor, and will use his best endeavours to promote and increase the prosperity of the said practice or business; and for the purpose of more effectually accomplishing such end, the vendor will, from the said — day of —, until the — day of — 19—, permit said practice to be carried on in his name, so that the vendor shall continue and remain ostensibly engaged

therein in the same manner as he has heretofore carried on his profession; and the vendor will from time to time during such period attend at the office and visit his patients with the purchaser for the purpose of introducing him to his patients and friends, and of assisting him in the management of said practice, but without participating in the losses, expenses or liabilities, or in the gains or profits of such practice.

The vendor covenants that he will not reside or practice either as a physician or surgeon, or act directly or indirectly as partner or assistant to, or with any other physician or surgeon practising either at — aforesaid, or elsewhere within — miles thereof [for — years from the date hereof].

The purchaser, in consideration of the agreements on the part of the vendor hereinbefore contained, hereby further agrees to pay him, his executors or administrators, the residue of the purchase money, being the sum of — dollars, by instalments as follows: one-half part thereof on the — day of — 19—, upon receiving the full and peaceable possession of the said practice, office, good will, fixtures, furniture, books and things hereinbefore mentioned, and the remaining half part thereof on the — day of — 19—. And it is mutually agreed between the parties hereto that if the purchaser shall not pay the said first instalment of the purchase money at the time aforesaid the vendor may, after giving the purchaser ten days' notice in writing of his intention so to do, rescind the said sale, and thereupon the said deposit money shall be forfeited to the vendor who shall thereafter be at liberty to continue the said practice or to sell to any other person the said practice, good will, books and other things hereby contracted to be sold.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### AGREEMENT TO EXHIBIT POSTERS

BETWEEN ADVERTISER AND ADVERTISEMENT AGENT OR BILL  
POSTER.

AGREEMENT made the — day of — 19—, between  
— of —, hereinafter called the advertiser, of the one part,

and — of — [*advertisement agent or bill poster*], hereinafter called the agent, of the other part.

The advertiser agrees to forthwith deliver to the agent — posters — inches by — inches in size, advertising — [*mention nature of advertisement*].

The agent agrees that he will, within [one week] after receiving the said posters, cause them to be properly posted on the boards, walls and boardings owned or controlled by the agent in — [*state locality or district*], and also on [*mention any particular place agreed upon where the posters are to be posted*] so that the said posters may be fairly distributed and not exhibited more than once on the same wall or boarding.

The said posters shall not be removed or obliterated by the agent for the period of — [months] after they are posted.

The advertiser agrees that he will pay the agent for the said services and work the sum of — dollars, in the following instalments, viz.: [*here set out amount of instalments and dates when payable*].

This agreement is subject to the condition that if from any cause there be a non-exhibition or a partial exhibition only, or a discontinuance of the exhibition of any of the said advertisements on the part of the agent, caused otherwise than by the elements or the malice or mischief of third parties, the agent will make a proportionate abatement in the amount agreed to be paid, which abatement the advertiser shall accept without making any further claim. And it is further agreed that if any instalment of payment hereinbefore agreed upon shall be at any time in arrear for [fourteen] days the agent may at his option cancel this agreement and remove or obliterate the said posters.

IN WITNESS, etc.

[*Signatures of both parties.*]

# AGREEMENT BETWEEN PRINCIPAL AND AGENT.

(*Form for Life Insurance Company.*)

THIS AGREEMENT made the — day of — 19—, between the — Insurance Company, hereinafter called the company, of the first part, and — of —, in the county of —, hereinafter called the agent, of the second part,

WITNESSETH that the said parties, in consideration of the mutual covenants and agreements hereinafter mentioned, hereby mutually covenant and agree each with the other as follows, to wit:

The company hereby appoints the said — the agent of the company for the purpose of canvassing for applications for insurance on the lives of individuals and of performing such other duties in connection therewith as may be required by the officers of the company, and this appointment is made on the following terms and conditions.

1. It is agreed that the agent shall have no authority on behalf of the company to make, alter or discharge any contract, to waive forfeitures, to extend the time of payment of any premium or to waive payment in cash, or to receive any money due or to become due to the company, except on applications obtained by or through him in exchange for conditional receipts to be furnished by the company, or on policies or renewal receipts [signed by the president, vice-president or actuary] sent to him for collection.

2. The said — shall act exclusively as agent for the company, and as such agent shall devote his entire time, talents and energies to the business of the agency hereby established, and in the conducting of it shall be governed strictly by the book of "Instructions to Agents" issued from time to time by the company, and by such other instructions as he may receive from the company. All applications for insurance taken by the agent shall be delivered to the company, whether they have been reported on favourably or unfavourably by the medical examiner.

3. The agent shall keep regular and accurate statements of all transactions for or on account of the company, and whenever required by the company, or its authorized agent, shall transmit to the company a report in detail embracing every item of business done by or through him and of all moneys collected or received by or through him for the company.

4. All books of account, documents, vouchers and other books or papers connected with the business of the said agency shall be the property of the company, whether paid for by the company or not, and at any and all times shall be open to the

company or its representatives for the purpose of examination, and shall be turned over to the company or its representatives on the order of the company, or on termination of the said agency.

5. All moneys or securities received or collected by the agent for or on behalf of the company shall be securely held by him as a fiduciary trust, and shall be used by him for no personal or other purpose whatever, but shall be by him immediately paid over to the company in accordance with its instructions; and it is expressly stipulated and agreed between the parties hereto, that in case the agent shall withhold any funds, policies or receipts belonging to the company, after such funds, policies or receipts should have been reported upon and transmitted to the company, or if he shall withhold any funds, policies or receipts after they shall have been demanded of him in writing by the company, such dereliction shall work a forfeiture to the company, unconditionally, of all claims whatsoever, accrued or to accrue under this or any previous agreement to the agent, but nothing herein shall be construed to affect any claims of the company on the agent.

6. The district within which the agent shall have permission to operate is —.

7. The agent shall thoroughly and ably canvass the said above-named district; but the company may, at its option, employ other agents in the said district, and the agent shall have no claim for commissions or other remuneration on the business effected by such other agents so employed.

8. If in any case the company shall deem it proper in consequence of misrepresentations made, or misunderstandings had, at the time of the issue of a policy, to return the premiums thereon and cancel it, the agent shall lose all right to commissions for premiums under the said policy, and shall be bound to repay to the company, on demand, the amount of commissions received on premiums so returned.

9. The agent shall collect and promptly remit to the company all premiums on policies not issued through his instrumentality, renewal receipts for which may be furnished him from time to time by the company.

10. The necessary expenses for medical examinations (except as provided in section 17 hereof), and for expressage on

documents and other things sent by the company to the agent, shall be paid by the company, and the company shall furnish the agent with such a supply of blanks and circulars as it shall deem reasonable, to enable him to carry on business as said agent, as aforesaid; and the company shall not be liable to pay any charge other than herein stated, or as shall hereafter be allowed by special written permission of the company.

11. The company may offset against any claims for commissions under this agreement any debts due at any time by the agent to the company.

12. The agent shall not enter the service of any life insurance company other than the — company, or place any applications for insurance in any other life insurance company, without the consent in writing of the company, so long as there is any indebtedness of any nature whatever due to the company.

13. The ledger account of the company shall be competent and conclusive evidence of the state of the accounts between the parties hereto. The company agrees to furnish the agent with a copy of the said account (not oftener, however, than once a month), upon receipt of a written request to that effect from the agent, due allowance to be made for clerical delays.

14. For the faithful performance of this agreement, and of all duties pertaining to the said agency, the agent shall keep deposited with the company a bond satisfactory to the company.

15. When premiums on policies of insurance effected with the company by or through the agent are collected otherwise than by the agent, — per cent of such premiums shall be deducted from the commission to be allowed herein, for expense of collection; commissions on premiums on all classes of policies not named in section 20 shall be determined by the company; in case any special agents or other persons acting for the company shall secure any business conjointly with the agent, the commissions herein provided shall be divided equally between the parties to this agreement, unless specially agreed to the contrary in writing; when policies that have been issued are changed, and an allowance made on the old policy which is applied to the payment of the new, no commission shall be allowed on the amount thus transferred from the old to the

new policy; and the commissions provided in section 20 shall not apply when the insured is over — years of age.

16. It is agreed that if the agent shall sell or offer to sell directly or indirectly to any person policies for insurance to be issued by the company hereunder, at any reduction from the regular table of rates as furnished to the agent by the company, such sale or offer of sale shall work an immediate termination of this agreement and a forfeiture of all rights and interest hereunder to the company.

17. The agent shall pay to the company the actual cost of medical examination for each policy issued to the agent by the company in form as applied for, and subsequently returned by the agent for cancellation.

18. Any rights of the agent under this agreement shall not be sold or assigned by him without the consent of the company in writing, but either party hereto may terminate this agreement upon [thirty] days written notice.

19. It is expressly understood and agreed between the parties hereto that this agreement shall be considered strictly confidential, and that under no circumstances shall the agent mention or exhibit the terms thereof to any person, under penalty of forfeiture of the agreement and all benefits thereunder.

20. The agent shall be allowed, under this agreement, the following compensation only, unless otherwise expressly stipulated in writing, namely: a commission on the original cash premiums for the first year of insurance, and, subject to conditions given in paragraph (c) of this section, upon the second year's premiums, which shall, during his continuance as said agent of the company, be obtained, collected, paid to and received by the company on policies of insurance effected with the company, by or through the agent, which commission shall be at and after the following rates:

(a) On the original cash premiums for the first year of insurance (on regular accumulation and on adjustable accumulation business) *[here set out the percentage to be allowed on each kind of policy]*.



(b) In addition to the foregoing compensation, the company will allow the agent an additional first-year commission on policies procured on plans of insurance designated for amounts of — dollars or over (payable on regular accumulation business only, and excluding all adjustable accumulation policies), as follows [*here set out the extra commission to be allowed*].

(c) If the total volume of new insurance written and examined during any twelve calendar months of the continuance of this agreement ending on the — day of —, upon which policies are issued, delivered, and upon which one full year's premiums are duly paid to and received by the company in cash in due course, during such twelve months, or within [sixty] days thereafter (policies upon which less than one full year's premiums are duly paid as above to count pro rata), amounts to — dollars or more, the agent shall be entitled to a commission on such premiums of the business so procured during such twelve months period as shall renew for the second year of insurance, subject to all the terms and conditions of this agreement, as follows: If — dollars is secured as above, the commission to be — per cent on the renewal premiums paid on the said business for the second year of insurance, subject to the foregoing conditions [*and so forth, the percentage increasing according to the amount of business done*].

21. This agreement shall take effect on the — day of — 19—, if duly signed by the agent, and in fac-simile by the [president, vice-president, or the superintendent of agencies] of the company.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### AGREEMENT FOR SALE OF SECRET PROCESS.

THIS INDENTURE made the — day of — 19—, between — [*vendor*] of —, hereinafter called the vendor, of the one part, and, [*purchaser*] of —, hereinafter called the purchaser, of the other part.

WHEREAS the vendor is in possession of a secret process for the manufacture of [*state what*];

AND WHEREAS the vendor has agreed with the purchaser for the sale to him of the said secret process and the exclusive and absolute benefit thereof for the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of — dollars paid by the purchaser to the vendor (the receipt whereof is hereby acknowledged) the vendor hereby covenants with the purchaser:

1. To forthwith impart the said secret process to the purchaser and to give to the purchaser such instructions with regard to the said secret process as may be necessary for the purpose of using it to the best advantage.

2. Not at any time or times hereafter to disclose the said secret process, and at the request and cost of the purchaser to take all possible steps to prevent the said secret process being used or disclosed by any other person.

3. To pay to the purchaser for every breach of the foregoing covenant the sum of — dollars as liquidated damages.

The vendor hereby warrants to the purchaser that the vendor has not at any time disclosed the said secret to any person or done any act or thing whereby the said secret has or is likely to become known to the public.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## SEPARATION AGREEMENT

BETWEEN HUSBAND AND WIFE. TRUSTEE INDEMNIFYING  
HUSBAND AGAINST WIFE'S DEBTS (a).

THIS INDENTURE made the — day of — 19—, between A.B. [husband] of —, of the first part; C.B. of —, wife of the said A.B., of the second part; and E.F. [trustee] of —, of the third part.

WHEREAS unhappy differences have arisen between the said A.B. and C.B., his wife, and they have consequently agreed

(a) If the wife has no separate estate it is necessary for a trustee to covenant on her behalf.

to live separate from each other for the future, and to enter into such arrangement as is hereinafter expressed.

AND WHEREAS the said A.B. and C.B. have two children namely, L.B., now of the age of — years, and M.B., now of the age of — years.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in consideration of the premises and of the covenants hereinafter contained on the part of the said C.B. and E.F., the said A.B. hereby covenants with the said C.B., and also by way of separate covenant with the said E.F. as her trustee, that the said C.B. shall and may at all times hereafter, notwithstanding her coverture, live separate (*b*) and apart from the said A.B. as if she were a feme sole, and shall henceforth be freed from the control and authority of the said A.B., and shall reside in such place or places and either in or out of business and in such manner as she shall think fit, and that the said A.B. will not at any time hereafter require her to live with him, or institute any legal proceedings, or take any other steps whatsoever for that purpose, and will not in anywise molest or interfere with the said C.B. in her business or manner of living or otherwise.

And that the said A.B. will, within — weeks from the date of the execution of this indenture, pay to the said E.F. the sum of — dollars for necessaries already supplied to the said C.B.

And that the said A.B., will during the joint lives of himself and the said C.B., if they shall so long live separate from each other [(*c*) and on condition that and so long as the said C.B., shall continue to lead a chaste life], pay to the said E.F., the clear annuity of — dollars in trust for the said C.B., [*if it is desired to pay the annuity direct to the wife, without the intervention of the trustee, say, pay to the said C.B., or to such person or persons as she shall from time to time direct or appoint in writing, the annual sum of — dollars*] for her sole and separate use and for the maintenance of herself and the said M.B.,

(*b*) If no separation in fact takes place, the deed will be altogether void (*Bindley v. Mulloney* (1869) L.R. 7 Eq. 343).

(*c*) These words must be inserted if it is intended that the annuity shall cease if the wife subsequently commits adultery (*Sweet v. Sweet* (1895), 1 Q.B.; *Wasterneys v. Wasterneys* (1900) A.C. 446).

and so that she shall not have power to dispose thereof in the way of anticipation, the said annual sum to be paid by equal [quarterly] payments on the — day of — and the — day of — in every year, the first payment to be made on the — day of — next.

But so, nevertheless, that the said annuity shall cease if the marriage between the said A.B. and C.B. shall at any time hereafter be dissolved by any tribunal having competent jurisdiction. And also that all property (if any) now belonging to the said C.B. for any estate or interest, whether in possession, reversion or otherwise, shall belong to her for her sole and separate use. And that if the said C.B. shall die in the lifetime of the said A.B. all property (if any) of the said C.B., which but for this covenant would on her death go and belong to the said A.B., shall go to the person or persons to whom, and in the manner which, such property would have gone if the said A.B. had died in the lifetime of the said C.B.

And in further consideration of the premises, the said C.B., and the said E.F. hereby jointly and severally covenant with the said A.B. that they, the said C.B. and E.F., will at all times hereafter during the continuance of the said separation keep indemnified the said A.B. from and against all debts and liabilities hereafter contracted or incurred by the said C.B., and from and against all actions, claims and demands on account thereof, and against all such costs, charges, losses, damages and expenses as may be incurred by the said A.B., on account thereof, and that if the said A.B., shall at any time hereafter be called upon to pay any and shall actually pay debt or debts which the said C.B., shall at any time hereafter contract, then and in every such case the said A.B., may retain out of the said annuity of — dollars the amount of such debt or debts, together with all costs, charges and damages which he may incur on account thereof. And, further, that the said C.B., nor any person on her behalf, shall not nor will at any time hereafter commence or prosecute any action or other proceedings for compelling the said A.B. to cohabit with her, the said C.B., or to allow her any support, maintenance or alimony (except the said annual sum hereinbefore covenanted to be paid to her), and shall not nor will molest the said A.B. in any manner.

[The petition of the said C.B. for a divorce shall be withdrawn, and all costs incurred in relation thereto shall be paid by the said A.B. *[or, the action now pending in the High Court of Justice shall be dismissed, with costs (as between party and party) to be paid by the said A.B. to the said C.B.]*, and no new or other proceedings or action shall be taken by either party on account of any alleged misconduct of either party before the date of these presents.]

And it is agreed that the said A.B., shall have the sole control, management, maintenance and guardianship of the said L.B. during the minority *[or, until the marriage]* of the said L.B., and that the said C.B. shall have the sole control, management, maintenance and guardianship of the said M.B. during the minority *[or, until the marriage]* of the said M.B., *[free from the control or authority of the said A.B., and that the said A.B., shall have access to the said M.B., and the said C.B., shall have access to the said L.B., under such arrangements as shall from time to time be made between them for that purpose, or, if they shall be unable to agree, then under such arrangements as shall be made by the said E.F.]*

And it is agreed that if the said A.B., and C.B., shall at any time hereafter with their mutual consent cohabit as man and wife, then in such case the said annuity of — dollars shall cease to be payable and all the covenants herein contained shall become void.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### SEPARATION AGREEMENT

BETWEEN HUSBAND AND WIFE, WITHOUT A TRUSTEE.

THIS INDENTURE made the — day of — 19—, between A.B. *[husband]* of —, of the first part, and C.B., the wife of the said A.B., of the other part.

WHEREAS differences have arisen between the said A.B. and C.B., and they have agreed to live separate from each other in future, and to enter into the arrangements hereinafter expressed.

*[Where there are trust funds under a marriage settlement add, AND WHEREAS by an indenture of settlement dated the*

— day of — 19—, and made previously to the marriage of the said A.B. and C.B., between [*state parties*], of which indenture E.F. and G.H. are the present trustees, divers moneys and property (therein called "the husband's trust funds," and "the wife's trust funds," respectively) were settled by and on the part of the said A.B. and C.B., respectively, upon trusts under which the income of the husband's trust funds is payable to the said A.B. and the income of the wife's trust funds is payable to the said C.B. for her separate use without power of anticipation during the joint lives of the said A.B. and C.B., and the income of all the said trust funds is payable after the decease of either of them to the survivor of them during his or her life.]

AND WHEREAS there has been no issue of the said marriage [*or, if children, see clauses on pages 118 and 120*].

NOW THIS INDENTURE WITNESSETH that in consideration of the premises it is hereby agreed and declared between and by the parties hereto as follows (*d*):

1. The parties hereto will henceforth live separate from each other, and neither of them will take proceedings against the other for restitution of conjugal rights, or molest, or annoy, or interfere with the other in any manner whatsoever.

[2. The yearly sum of — dollars, part of the income of the husband's trust funds settled by the said indenture of settlement, shall be paid to the said C.B. for her sole and separate use, without power of anticipation, during the joint lives of the said A.B. and C.B., if they shall so long live separate from each other [*(e)*] and on condition that, and so long as she shall continue to lead a chaste life], by equal [quarterly] payments on the — day of —, and the — day of — in every year, the first payment to be made on the — day of — next; and the said A.B. hereby assigns the said yearly sum to the said C.B., and directs the trustees of the said indenture of settlement to pay the same to her accordingly.]

3. All property (if any) now belonging to the said C.B. for any estate or interest, whether in possession, reversion, or otherwise, shall belong to her for her separate use.

(*d*) See also the special covenants in the preceding form.

(*e*) See note (*c*) on p. 118.

4. The said C.B. will pay her own debts and keep the said A.B. indemnified therefrom, and if the said C.B. shall make default in observing this covenant all moneys which shall be paid by the said A.B. in respect of any debt or liability of the said C.B. shall be refunded to him out of the yearly sum payable to the said C.B. under article 2 hereof.

5. And the said A.B. and C.D., for themselves, their heirs, executors and administrators, respectively, covenant each with the other of them, his or her heirs, executors, administrators and assigns, that they will from time to time and at all times hereafter, upon every reasonable request, and at the costs of the other of them, his or her heirs, executors, administrators and assigns, execute and do all further assurances and things for the purpose of giving full effect to the covenants, agreements and provisions herein contained.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### AGREEMENT FOR SALE OF STANDING TIMBER.

AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the vendor, of the first part, and — of the — of — in the county of —, —, hereinafter called the purchaser, of the second part.

WITNESSETH that the vendor agrees to sell to the purchaser all the [hemlock] timber and trees now standing, growing, lying or being on all that certain parcel of land situate, etc., [with liberty to the purchaser to place and dry the bark of the said trees on any convenient part of the said land.]

In consideration whereof the purchaser agrees to pay to the vendor the sum of — dollars, as follows:

The purchaser agrees that the trees shall be felled with as much care as possible, and in a workmanlike manner, and that he will do no unnecessary damage to the remaining trees, or to the underbrush or crops, or to any road or fence, and will repair any damage so done, or make compensation therefor, and for any other damage done to any property of the

vendor. [*If necessary, add, The said timber and trees shall be removed only by the roads and gaps appointed by the vendor.*]

And the purchaser agrees that he will cut down and remove (f) all the said timber and trees (which he intends to cut and remove) on or before the — day of — 19—, after which date all of the said timber and trees remaining upon the land shall be forfeited to the vendor.

And it is hereby agreed that if any dispute shall arise between the parties hereto with regard to the said timber or trees, or to the compensation to be made for any damage done as aforesaid, or to anything herein contained, such dispute shall be submitted to — as arbitrator, whose award shall be final and conclusive between the parties hereto.

And it is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(f) On a sale of trees, the liberty to cut and carry them away is implied and need not be expressly conferred.



# ARBITRATION.

## AGREEMENT FOR REFERENCE

### TO ONE ARBITRATOR.

AGREEMENT made the — day of — 19—, between — of —, of the first part, and — of —, of the second part.

#### *Recital of disputes.*

WHEREAS disputes and differences have arisen and are still subsisting between the said parties, now it is agreed to refer all such disputes and matters in difference whatsoever to the determination and award [continue on the tenth line below]. or,

#### *Recital of pending suit.*

WHEREAS an action is now pending in the [High Court of Justice.] wherein — is plaintiff and — defendant, and it is agreed [if it be intended not to refer the action, but only the subject of the action, that all proceedings in the action shall be stayed, but that in order to ascertain, settle and adjust all accounts, claims and demands in dispute in the said action] that the same [if the reference is general, add, and all matters whatsoever in difference between the parties] shall be referred to the determination and award of — of —, —, so as the said arbitrator make and publish his award in writing, and signed by him, of and concerning the matters referred, ready to be delivered to the said parties or to either of them, or, if they or either of them shall be dead before the making of the award, to their respective personal representatives who shall require the same, on or before the — day of — 19—, or on or before any other day to which the arbitrator shall, by any writing signed by him endorsed on this submission, from time to time enlarge the time for making his award.

#### *Death of party not to affect reference.*

And it is further agreed that the submission hereby made shall not be defeated or affected by the death of the said parties

or either of them pending the same, but shall or may be proceeded in, and the matters in difference determined in the same manner as if the award of the arbitrator had been made or determined in the lifetime of the party or parties so dying; and the executor or administrator, executors or administrators of the party or parties so dying shall be, and be considered to be, a party or parties to the reference or submission hereby made, any rule of law or equity to the contrary notwithstanding.

*Power to proceed ex parte.*

And that the arbitrator shall be at liberty to proceed ex parte in case either party, after reasonable notice, shall at any time neglect or refuse to attend on the reference, without having previously shown to the arbitrator what the latter shall consider good and sufficient cause for failure to attend.

*Examination of witnesses.*

And that the arbitrator shall be at liberty to examine the parties hereto or either of them and the witnesses in the reference, and that the parties and witnesses, if examined, shall be examined on oath or affirmation.

*Production of documents.*

And that the parties respectively shall produce before the arbitrator all books, documents, papers, accounts, vouchers, entries, memoranda, maps, plans and writings in their possession, power or control relating to the matters referred which the arbitrator may require.

*Maps, plans, etc.*

And that the arbitrator shall have power to cause such maps, plans and measurements to be made and taken as he shall deem necessary or expedient, and the cost and expenses thereof shall be in the direction of the arbitrator.

*Accountant.*

And that the arbitrator shall, if he think it necessary, be at liberty, and he is hereby authorized, to appoint an accountant to assist him, at the expense of the parties, who shall be liable to such accountant for his reasonable remuneration; and that, as between the parties, the expense of such accountant shall be

borne and paid in equal moieties by the parties [*or, shall be in the discretion of the arbitrator*]; and such accountant shall be required to make his solemn declaration, according to the statute, of the truth of any account or statement made out by him.

*Opinion of counsel.*

And that the arbitrator shall be at liberty, at any stage of the proceedings, to state a case for the opinion of counsel upon any question arising in the course of the reference, and may act upon the opinion so taken.

*Parties to assist arbitrator.*

And that the parties respectively shall do all other acts necessary to enable the arbitrator to make a just award; and that neither of them shall wilfully or wrongfully do, or cause to be done, any act to delay or prevent the arbitrator from making his award.

*To abide by award.*

And that the parties, their executors and administrators, shall, on their respective parts, in all things obey, abide by, perform and keep the award so to be made and published as aforesaid.

*Not to bring action.*

And that none of the parties shall bring or prosecute any action against the arbitrator or against any other of the parties concerning the matters in difference and concerned in the reference.

*Power to refer back award.*

And it is further agreed that in the event of either of the parties, their executors or administrators, being dissatisfied with the award, or disputing its validity, and moving the court to set the same, or any part thereof, aside, or on any motion being made respecting the said award, the said court, whether the award be insufficient in law or not, shall have power, if it shall think fit, to remit the award or the matters hereby referred, or any of them, from time to time to the reconsideration and determination of the arbitrator.

*Costs of arbitration.*

And that the costs of preparing and executing these presents and a duplicate thereof, and the costs of the reference and

award, shall be in the discretion of the arbitrator, who may direct to, and by whom, and in what manner, the same or any part thereof shall be paid [or, that the costs of the reference and award shall abide the event of the award, or, that the costs of the action shall abide the event of the award as to the action, and the costs of the reference shall be paid by the parties in equal proportions.

*Penalty for breach of agreement.*

And for the due execution and observance of the agreement hereinbefore contained on the part of the party of the first part [and also for any other party for whom the party of the first part is liable], the party of the first part doth hereby bind himself, his heirs, executors and administrators, in the sum of — dollars; and for the due execution and observance of the agreement hereinbefore contained on the part of the part of the second part [and also for any other party for whom the party of the second part is liable], the party of the second party doth hereby bind himself, his heirs, executors and administrators, in the sum of — dollars.

*Submission to be made a rule of court.*

And it is further agreed that this submission to arbitration shall [not (a)] be made a rule of the [High Court of Justice].

*Award to be final and without appeal.*

And it is further agreed by each of the parties hereto that the award made pursuant to the terms of this submission shall be final and conclusive between them and their respective heirs, executors and administrators, and that there shall be no appeal therefrom.

*Arbitrator's fees.*

And the parties hereto jointly and severally agree to and with the arbitrator, in consideration of his taking upon himself the burden of the reference, to pay to him his reasonable charges for the arbitration and award.

IN WITNESS whereof the parties hereto have hereunto set their hands.

WITNESS:

(a) If it is intended that the submission shall not be made a rule of court it must be so stated. If the submission is made a rule of court it is not revocable by either party without leave of the court.

# AGREEMENT FOR REFERENCE

TO ONE ARBITRATOR.

(Short form.)

We — of — and — of — do hereby refer all matters in dispute [relating to — (b)] between us to the award and determination of — of —, whose decision and award shall be final and binding upon us and our respective heirs, executors, administrators and assigns, and who shall have all the powers given by "The Arbitration Act," Ontario, to arbitrators, and who may proceed ex parte if he think fit after such notice as he may deem reasonable.

This submission shall not be determined by the death of either of us.

IN WITNESS, etc.

WITNESS:

# AGREEMENT FOR REFERENCE

TO ONE ARBITRATOR, IN PLACE OF ONE WHO HAS DIED.

AGREEMENT made the — day of — 19—, between — of the one part and — of the other part [*the two parties to the reference*].

WHEREAS — [*original arbitrator*] died on the — day of — 19—, without having made his award in respect of the matters expressed to be referred to him by the agreement of reference [*or as the case may be*] dated the — day of — 19—.

Now it is agreed between the parties hereto as follows:  
1. All the matters expressed to be referred to the said — [*original arbitrator*] by the said agreement of reference are hereby referred to the determination and award of — [*new arbitrator*] of —.

2. The said agreement of reference shall be read and construed throughout as if the name of — [*new arbitrator*] had

(b) As a rule it is advisable to enumerate in the agreement the specific matters in dispute, in order to guide the arbitrator, but it is not generally advisable to limit the reference to the specified matters, since other matters and questions invariably arise in the course of the arbitration. The best course is to add a submission of all matters in difference arising out of the particular contract or relationship.

originally been inserted therein in the place of that of. —  
[*original arbitrator*].

3. In clause [3], in the limitation of time for the arbitrator to make his award, the words "[first of March]" shall be read instead of "[first of January]." In other respects all the provisions of the said agreement of reference shall continue in full force and effect.

IN WITNESS, etc.

[*Signatures of both parties.*]

### AGREEMENT FOR REFERENCE

#### TO THREE ARBITRATORS.

AGREEMENT made the — day of — 19—, between — of —, of the one part, and — of —, of the other part.

WHEREAS certain disputes and differences have arisen and still exist between the said parties relative to [*set out the matters in dispute*].

Now it is hereby agreed by and between the parties hereto that the said disputes and causes of difference shall be and they are hereby referred and submitted to the arbitration and determination of — of — and — of —, nominated by the said parties respectively, and of such third arbitrator as the said — and — [*first-named arbitrators*] shall by writing under their hands, to be endorsed upon this submission, before they enter on the business of the reference, nominate and appoint to act with them, so as the said arbitrators [or any two of them] make and publish their award in writing, signed by them, of and concerning the matters referred, ready to be delivered to the parties or either of them, their executors, administrators or assigns, on or before the — day of — 19—, or any subsequent day to which the said arbitrators shall from time to time by writing under their hands extend the time for making such award.

#### *Provisions for appointing new arbitrators.*

And that in case either of the two first appointed arbitrators shall die or refuse or become incapable to act as arbitrator, before the whole of the premises hereby referred shall be de-

terminated by the said arbitrators, then the party who appointed such arbitrator, or the heirs, executors or administrators of such party, shall forthwith thereafter nominate and appoint some other fit and indifferent person to be arbitrator in the stead and place of the arbitrator dying, refusing or becoming incapable to act; and so in like manner upon the decease, refusal or neglect to act of any arbitrator succeeding to the place of the said arbitrator, and every arbitrator so appointed as a substitute for either of the said first-appointed arbitrators or any succeeding arbitrator shall have the same powers and authorities as the arbitrator for whom the substitution is made would have had if he had acted or continued to act.

*To abide by award.*

And the parties hereto do mutually covenant and agree each with the other that the award to be made by the said arbitrators or any two of them shall in all respects be well and faithfully kept and observed.

*Not to bring action.*

And it is hereby agreed between the parties hereto, each with the other, that he will not bring or prosecute any action against the other, or against the arbitrators or any of them, concerning the matters in difference, or any of them, concerned in the said reference.

[Add other clauses as required from form on page 124.]

IN WITNESS, etc.

WITNESS:

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### AGREEMENT FOR REFERENCE

UNDER "THE ARBITRATION ACT."

(R.S.O., c. 62.)

AGREEMENT made this — day of — 19—, between  
— of — and — of —.

WHEREAS differences have arisen between the parties hereto in respect of —, and they have agreed to refer such differences to arbitration upon the terms and conditions contained in the Act of the Legislature of the Province of Ontario intituled "The Arbitration Act."

Now it is hereby agreed by the said parties that all matters in difference between them in relation to the premises shall be and are hereby referred to — of —, as arbitrator (c).

And it is further agreed that if the said — [arbitrator] refuses to act, or is or becomes incapable of acting, or dies (d) either before or during the progress of the arbitration, then the said matters shall be referred to — of —, as arbitrator.

[Here insert such special clauses from forms on pages 124 and 129 as may be required. The Arbitration Act, however, makes provisions as to witnesses, evidence, production of documents, costs, etc.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

## AGREEMENT FOR REFERENCE

BY DEED.

THIS INDENTURE made the — day of — 19—, between A.B. of — and C.D. of —, of the first part; E.F. of —, of the second part; and G.H. of —, of the third part.

WHEREAS differences have arisen and are still depending between the said A.B. and C.D. and the said E.F., and also between the said A.B. and the said E.F., and also between the said E.F. and the said G.H., touching and concerning [*here shortly state the matters in dispute*]; and in order to put an end to such differences, the said parties have agreed to refer the

(c) If the reference is made to an official referee he shall, upon application, hear and determine the matters agreed to be referred.

If it is intended to refer to two arbitrators, it must be so stated. If the reference is to two arbitrators the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award. The award must be made within three months after entering on the reference or after having been called on to act by notice in writing from any party to the submission, or within such time as the arbitrators enlarge the time for making the award. If the arbitrators fail to make an award within such time, or state that they cannot agree, the umpire may enter on the reference and shall make his award within one month from the time allowed the arbitrators has expired, or within such time as he may enlarge the time for making his award. The award so made is binding on the parties and those claiming under them (R.S.O., c. 62, Sch. A.).

(d) When the reference is to two or more arbitrators, the person who appointed the arbitrator who ceases to act may appoint a new arbitrator in his place under the statute (Ont. 1903, c. 7, s. 16), *quid vide*.



same [or, all matters in difference] to the award of X.Y. of — as arbitrator.

NOW THIS INDENTURE WITNESSETH that they, the said A.B., C.D., E.F., and G.H., do and each of them doth, each for himself, severally and respectively, and for his several and respective heirs, executors and administrators, covenant and agree with each other, his heirs, executors and administrators, respectively, to stand to, abide by, observe and perform the award and determination of the said X.Y. of and concerning the premises aforesaid; so as the said arbitrator [*continue as in Agreement for Reference, p. 124*]. And the said parties do hereby further agree that [*add clauses considered advisable*].

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### BOND

#### TO REFER TO ARBITRATION.

KNOW ALL MEN by these presents that I, A.B., of —, am held and firmly bound to C.D., of —, in the penal sum of — dollars of lawful money of Canada, to be paid the said C.D., or his certain attorney, executors, administrators or assigns, for which payment I bind myself, my heirs, executors and administrators, by these presents.

SEALED with my seal and dated the — day of — 19—.

WHEREAS [*here state the existence of differences between A.B. and C.D., or enumerate special matters in dispute, as in a submission by agreement*].

AND WHEREAS the above bounden A.B. and the said C.D. have agreed to refer the said differences [and all matters in difference between them] to the award and determination of W.X., of —, and Y.Z. of —, arbitrators nominated, appointed and chosen as well by and on the part and behalf of the above bounden A.B. as of the said C.D., (the said W.X. and Y.Z. having consented and agreed to accept the burden of the said arbitration), and of such third arbitrator as the said W.X. and Y.Z. shall, by writing under their hands before they proceed in the arbitration, nominate and appoint to act with them.

NOW THE CONDITION of this obligation is such that if the above bounden A.B., his heirs, executors and administrators, do and shall, on his and their part and behalf in all things, well and truly observe, perform and keep the award and determination of the said arbitrators respecting the matters referred, so as the award of the said arbitrators be made in writing ready to be delivered to the said parties, (or if the said parties, or either of them, shall be dead before the making of the award, then to their respective personal representatives who shall require the award,) on or before the — day of — 19—, or on or before any other day, not later than the — day of — 19—, to which the said arbitrators shall, by any writing signed by them endorsed on these presents, enlarge the time for making their said award, then this obligation shall be void: otherwise to remain in full force and virtue.

And it is further agreed by and between the said A.B. and C.D. that *[here add such of the clauses and provisions from Agreement for Reference, page 124, as may be required]*.

SIGNED, SEALED, etc.

*[C.D. should execute to A.B. a similar bond with a similar condition.]*

### REQUEST TO CONCUR IN APPOINTMENT

OF A SINGLE ARBITRATOR BEFORE PROCEEDING TO APPOINT  
ONE OF TWO (e).

WHEREAS disputes and differences have arisen between you and me within the meaning of [the arbitration] clause — of an indenture dated the — day of — 19—, and made between etc., and I desire to have such differences settled by arbitration in accordance with the provisions of the said clause.

I hereby give you notice that I am willing to concur in the selection of a single arbitrator, and in the event of our failing to agree upon a single arbitrator I shall forthwith proceed to

(e) Where a provision as to arbitration contemplates an agreement to refer to a single arbitrator, failing which it is to stand referred to two, an endeavour should be made by the parties to concur in choosing a single arbitrator, and only in the event of this failing should each proceed to appoint his own arbitrator (*Yates v. Mayor of Blackburn* (1860), 29 L. J. Ex. 447).

appoint an arbitrator to act on my behalf in the matter of the said differences.

Dated the — day of — 19—.

[Signature of party giving notice.]

To [other party] of —.

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### APPOINTMENT OF SINGLE ARBITRATOR.

#### JOINTLY BY BOTH PARTIES.

WHEREAS disputes and differences have arisen between us, the undersigned — of — and — of —, within the meaning of the arbitration clause contained in an indenture dated the — day of — 19—, and made between, etc., and we are desirous of having the said differences settled by arbitration.

NOW THEREFORE, in pursuance of the provisions of the said indenture, we, the said — and —, hereby jointly nominate and appoint you — [arbitrator] of —, to be the sole arbitrator concerning the premises, and to determine all such matters in difference between us as aforesaid, and we hereby call upon you to act in the premises.

AS WITNESS our hands this — day of — 19—.

To — [arbitrator] of —.

A.B.

C.D.

---

### APPOINTMENT OF ARBITRATOR

#### BY ONE OF THE PARTIES.

WHEREAS by an indenture dated the — day of — 19—, and made between A.B., of the one part, and me, the undersigned C.D., of the other part, it is provided that all disputes and differences arising between the parties thereto shall be referred to two arbitrators as therein mentioned; And whereas disputes and differences within the meaning of the said indenture have arisen, and are now depending between the said parties thereto:

NOW THEREFORE, in pursuance of the power in the said indenture contained, I, the said C.D., do hereby nominate and

appoint you — [arbitrator] of —, to be the arbitrator on my behalf of and concerning the premises.

As WITNESS my hand this — day of — 19—.

To — [arbitrator] of —.

C.D.

### APPOINTMENT OF THIRD ARBITRATOR

BY ARBITRATORS NAMED BY THE PARTIES.

PURSUANT to the powers given to us by an [agreement of reference] dated the — day of — 19—, and made between — of —, and — of — [or, by the agreement of reference contained in the condition of two mutual bonds made and executed on the — day of — 19—, by — of — and — of —, respectively, each to the other], we, — and —, the thereby appointed arbitrators, do by this memorandum in writing under our hands, made before we have entered upon the consideration of the matters referred, nominate and appoint — of —, to be the third arbitrator to act with us in the consideration and determination of the same, according to the provisions of the above-mentioned agreement of reference [or, bonds], provided that he do, within — days from the date hereof, consent to act.

WITNESS our hands the — day of — 19—.

WITNESS:

### APPOINTMENT OF THIRD ARBITRATOR

IN PLACE OF ONE WHO DIES OR REFUSES TO ACT.

IN THE MATTER of an arbitration between — and —.

WHEREAS we the undersigned — and — [arbitrators], of —, duly appointed — [original third arbitrator] of — to be the third arbitrator in the above matter.

AND WHEREAS the said — has since died [or, refuses to act, or, is incapable of acting].

NOW THEREFORE, in pursuance of the provisions of the agreement for submission [or as the case may be] under which we are acting, we hereby appoint — [new third arbitrator] of

— to be the third arbitrator in the above matter in the place of the said — [original third arbitrator.]

AS WITNESS our hands the — day of — 19—.

[Signatures of both arbitrators.]

### NOTICE OF APPOINTMENT OF ARBITRATOR

#### AND REQUEST TO OTHER PARTY TO APPOINT ONE.

Sir, I hereby give you notice that I have this day appointed X.Y., of —, to be the arbitrator on my behalf to settle by arbitration, in pursuance of the proviso in that behalf contained in an indenture dated the — day of — 19—, the disputes and differences that are now depending between us. And I hereby require you, within seven days from the service of this notice on you, to name an arbitrator to act on your behalf in the matter of the said disputes and differences, failing which the said disputes and differences will stand referred to the said X.Y. alone, as sole arbitrator.

Dated the — day of — 19—.

To C.D.

A.B.

### NOTICE TO ONE ARBITRATOR TO ACT ALONE

#### ON DEFAULT OF OTHER PARTY TO APPOINT ONE (f).

IN the matter of an arbitration between [first party] and [second party].

WHEREAS by an instrument in writing under my hand dated the — day of — 19—, I duly appointed you [arbitrator] to be the arbitrator on my behalf to determine the matters in difference therein referred to between me, the above-named [first party] and the above-named [second party]; And whereas by a notice in writing, dated the — day of — 19—, I informed the

(f) Where a submission under the Arbitration Act provides that the reference shall be to two arbitrators, and one party fails to appoint an arbitrator, either originally or by way of substitution, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator (R.S.O. c. 62, s. 8).

said [second party] of such appointment, and required him within seven clear days from the service thereof upon him to name an arbitrator to act on his behalf in the matter of the said differences; And whereas the said [second party] failed for seven clear days after service of such notice to appoint an arbitrator.

NOW THEREFORE, pursuant to the power conferred on me by section 8 of The Arbitration Act (g), I hereby appoint you to act as sole arbitrator in the said reference and I call upon you to proceed therewith.

As WITNESS my hand this — day of — 19—.

To X.Y., of —.

A.B.

### NOTICE TO ARBITRATORS

TO APPOINT A THIRD ARBITRATOR IN PLACE OF ONE WHO DIES  
OR REFUSES TO ACT.

IN THE MATTER of an arbitration between — and —.

WHEREAS [third arbitrator] of —, who was appointed by you to be the third arbitrator in the above matter has died [or, refused to act, or, become incapable of acting].

NOW THEREFORE, I, the above-named [party giving notice] hereby request and require you to appoint a third arbitrator to act in the place of the said —, and if the appointment is not made within [seven] clear days after the service of this notice upon you I shall forthwith apply to the [High Court of Justice] for the appointment of a third arbitrator in the place of the said —.

As WITNESS my hand the — day of — 19—.

To — and —, the arbitrators ) [Signature of party  
appointed in this matter. ) giving notice.]

### NOTICE TO ARBITRATORS

TO PROCEED WITH REFERENCE.

IN THE MATTER of an arbitration between — and —.

TAKE NOTICE that I, the above-named [party giving notice] hereby call upon you to act in the above matter and proceed

(g) R.S.O. c. 62.

in the reference. And further take notice that if for seven days after service upon you of this notice you fail to act I shall treat such failure as a refusal to act in the matter of such reference.

As WITNESS my hand the — day of — 19—.

To W.X., of —, and Y.Z., of —, the } [Signature of party  
arbitrators appointed in the above } giving notice.]  
matter.

### APPOINTMENT

TO PROCEED WITH REFERENCE.

I appoint — the — day of — next [peremptorily] for proceeding in this reference, at the hour of — o'clock in the —noon, at [*name place where reference will be held.*]

Dated the — day of — 19—.

To —, Solicitor for A.B. ) X. Y.  
and to —, Solicitor for C.D. } Arbitrator.

### OATH

TO BE ADMINISTERED TO WITNESS BY ARBITRATOR.

THE evidence which you shall give touching the matters in difference between the parties to this reference, shall be the truth, the whole truth and nothing but the truth; so help you God (*h*).

### AFFIRMATION

TO BE ADMINISTERED BY ARBITRATOR TO WITNESS.

I, A.B., do solemnly, sincerely and truly affirm and declare that I will true answers make to all such questions as shall be asked me touching the matters in difference between the parties to this reference.

(*h*) In the case of a Jew, the oath ends "So help you Jehovah;" and he is sworn on the Old Testament and with his hat on

## DEMAND FOR DOCUMENTS

BY ARBITRATOR.

IN THE MATTER of the arbitration between A.B. and C.D.

Sir; In pursuance of the power given to me by the agreement of submission [*or other submission, as the case may be*], I require you to produce before me on — the — day of — next, at the hour of — o'clock in the — noon, at [*name place where arbitrator will sit*], the following documents relating to the matters in this reference, that is to say: [*Here enumerate the books, deeds, papers and writings demanded, specifying and describing each with a reasonable degree of particularity as far as is practicable*], and also all other books, deeds, papers and writings concerning the matters in difference referred to my decision.

Dated the — day of — 19—.

To —.

X.Y.

Arbitrator.

## REVOCATION OF ARBITRATOR'S AUTHORITY.

THESE PRESENTS witness that I, A.B., of —, do hereby revoke, and withdraw every power and authority which by [*recite the submission, for instance, a certain agreement of reference in writing*] dated the — day of — 19—, and made between me, the said A.B., and C.D. of —, or otherwise, were conferred upon X.Y., the arbitrator thereby appointed, to determine and award upon certain matters in difference between me and the said C.D.

And I hereby prohibit the said X.Y. from any further proceeding in the said arbitration, or further acting in pursuance of the power conferred upon him as aforesaid.

AS WITNESS my hand [and seal (*i*)] this — day of — 19—.

WITNESS:

(1) The revocation must be under seal if the submission was.



## NOTICE OF REVOCATION

## OF ARBITRATOR'S AUTHORITY.

IN THE MATTER of an arbitration between A.B. and C.D.

Sir, I hereby give you notice that by an instrument in writing [under seal] dated the — day of — 19—, (a copy of which is sent herewith) I have revoked the authority of you [or, of X.Y.(j)] to determine any differences between me and C.D. [or, you].

Dated the — day of — 19—.

To X.Y. [or, C.D. other party].

[Signature of party  
giving notice.]

## ENLARGEMENT OF TIME

## BY ARBITRATORS.

We [further] enlarge the time for making our award respecting the matters referred to us by the within submission [or, order of reference, or as the case may be,] until the — day of — 19—.

Dated the — day of — 19—.

WITNESS:

## ENLARGEMENT OF TIME

## BY PARTIES.

We, the within-named — and —, do hereby agree to give and allow to the within-named arbitrators a further time for making their award of and concerning the several matters within referred to them, namely, until the — day of — 19—.

And we further declare and agree that all the provisions contained in the within agreement of reference [or, bond of submission, or as the case may be] shall continue in full force and effect, except that they shall be construed and read as if the day hereby given and allowed had been given and allowed for

(j) By substituting the names within brackets this form may be used for giving notice to the other party.

the making of the award by the within contained agreement of reference [*or as the case may be*].

IN WITNESS (*k*) whereof we have hereunto set our hands [and seals] this — day of — 19—.

WITNESS:

### AWARD.

TO ALL to whom these presents shall come. I — of — send greeting.

#### *Recital when submission was by agreement or deed.*

WHEREAS by a certain agreement of reference [*or as the case may be*] dated the — day of — 19—, and made between A B. of —, of the first part, and C.D. of —, of the second part, reciting that [*here recite so much of the matters in difference as will explain and justify the subsequent directions of the award*] it was agreed that the same [*or, that all matters in difference*] [*state the terms of reference as the case may be*] should be referred to the award and final determination of me — of —, the said award to be made in writing on or before the — day of — 19—.

#### *Recital when submission was by bond.*

WHEREAS A.B. of — did, by his bond, dated the — day of — 19—, become bound to C.D. of —, in the penal sum of — dollars, and the said C.D. by his bond, also dated the day and year aforesaid, did become bound to the said A.B. in the like penal sum of — dollars, which bonds respectively recite that [*here set out so much of the recital in the bonds as suffices to show what is referred, and to explain the rest of the award*]; under which bonds conditions were respectively written for making the same void if the said A.B. and C.D. respectively, and their respective heirs, executors and administrators, should observe, perform and keep the award which I, the said arbitrator, should make of and concerning the said matters referred [*according to the bonds*], so as I, the said arbitrator, should make and publish my award in writing [*set out the provisions of the bonds*]

(*k*) This must be by an instrument of as high a nature as the submission.

as to the delivery of the award, the time for making it, and the power of enlargement as above].

*Recital when submission was by a rule of court.*

WHEREAS by a rule of the High Court of Justice made the — day of — 19—, in an action wherein — was plaintiff and — defendant, it was, by consent, ordered that all matters in dispute between the said parties should be referred to the award of me — of —.

*Recital of special powers.*

AND WHEREAS it was further agreed that [*here set forth such of the several powers and provisions in the submission as warrant the directions of the award*].

*Recital of enlargements.*

AND WHEREAS I, the said arbitrator, did by endorsement on the said agreement by writing under my hand enlarge the time for making my award until the — day of — 19—.

*Terms of findings.*

Now I, the said arbitrator, having taken upon myself the burden of this reference, and having duly weighed and considered the several allegations of the said parties, and also the proofs, vouchers and documents which have been given in evidence before me, do hereby make and publish this my award in writing of and concerning the matters above referred to me in manner following, that is to say:

I award and adjudge [*here follow the particulars of the findings and award*].

*General finding.*

And I further find that neither of the said respective parties has any other demand, claim or cause of action upon or against the other of them in respect of the matters referred as aforesaid, and the matters aforesaid by me awarded upon.

*Costs of award.*

I award that each of the said parties shall pay his own costs of this reference, and that the costs of this my award shall be paid by them in equal moieties [*or, I award that the costs of*

this reference and of this my award shall be paid by the said parties in equal moieties.]

IN WITNESS whereof I have hereunto set my hand [and seal (1)] this — day of — 19—.

SIGNED AND PUBLISHED  
[or, SIGNED, SEALED AND PUBLISHED] }  
in the presence of

—

## AFFIDAVIT OF EXECUTION

### OF AWARD.

IN THE MATTER of the arbitration between A.B. and C.D.

I, X.Y., of the — of — in the county of —, —, make oath and say:

1. I was present on the — day of — 19—, and saw — [arbitrator] sign and publish [or, sign, seal and publish, as the case may be] the award in writing hereto annexed.

2. [Where the time for making the award was enlarged add]: The time for making the said award was, on the — day of — 19—, duly enlarged to the — day of — 19—, by writing under the hand of the said — [arbitrator], endorsed on the said bond [or other submission, as the case may be].

3. The name — [name of arbitrator] subscribed to the said award is of the proper handwriting of the said —; and the name "X.Y." subscribed thereto as a witness attesting the execution of the said award is of the proper handwriting of me this deponent.

4. [The said award was made and published on the — day of — 19—, and within the enlarged time for making and publishing the same.]

SWORN, etc.

(1) Where the submission was under seal, the award must also be.

## NOTICE OF AWARD.

IN THE MATTER of an arbitration between A.B. and C.D.

Gentlemen,—I hereby give you notice that I have made and published my award in writing of and concerning the above matter, and that it lies at my office [*or as the case may be*] ready to be delivered. The charges amount to \$——.

[*Place and date.*]

Yours truly,

To — and —,  
and to — and — }  
their solicitors.

X.Y.,  
Arbitrator.

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# ARRANGEMENTS WITH CREDITORS.

## ASSIGNMENT FOR THE BENEFIT OF CREDITORS.

ASSIGNMENTS AND PREFERENCES ACT (a).

(R.S.O., c. 147.)

THIS INDENTURE made the — day of — 19—, in pursuance (b) of the Revised Statutes of Ontario, chapter 147, being an Act respecting Assignments and Preferences by Insolvent Persons, between — of the — of — in the county of —, —, hereinafter called the debtor, of the first part; — of the — of — in the county of —, —, hereinafter called the assignee (c) of the second part; and the several persons, firms and corporations who are creditors (d) of the debtor, hereinafter called the creditors, of the third part.

(a) A common law assignment cannot now be used in Ontario, as the statute applies to all assignments, therefore no common law forms are given. No affidavit of bona fides is necessary under the statute; only in the event of the statute being repealed could a common law assignment, which requires an affidavit of bona fides, be used.

(b) Every assignment for the general benefit of creditors, whether the assignment is or is not expressed to be made in pursuance of this Act, vests the estate in the assignee (s. 6.).

(c) The assignee must be a permanent and bona fide resident of Ontario, and an assignee may not appoint a deputy or delegate his duties as assignee to any person who is not a permanent and bona fide resident of Ontario (s. 4).

(d) Actual signature by the creditors is not essential, and it is seldom that an assignment is signed by a creditor. Formerly it used to be the practice to have some of the creditors execute the assignment in order to make it irrevocable, and at the same time to evidence their approval of the assignment being made to an ordinary assignee instead of to the sheriff. When this was done the creditors who signed were strictly parties to the instrument, and difficulty used sometimes to arise owing to the fact that the affidavit of execution did not prove execution by them. When it is desired to have creditors signify their assent to the assignment it is usual either to have them sign a collateral assent, or to write an assent after the end of the instrument and have the creditors sign it. This assent may be in the following form:

"The undersigned, being a majority of the creditors, hereby assent  
"to the above assignment and to its being made to the assignee therein  
"named instead of to the sheriff of the county of—."

In this case the creditors are not looked upon as being parties to the instrument itself, and the affidavit need not prove execution by them.

WHEREAS the debtor has heretofore carried on business at the — of — in the county of — as a —, and being unable to pay his creditors in full has agreed to convey and assign to the assignee all his estate, real and personal, for the purpose of paying and satisfying the claims of his creditors, ratably and proportionately and without preference or priority.

NOW THIS INDENTURE WITNESSETH that, in consideration of the premises and of one dollar, the debtor doth hereby grant and assign to the assignee, his heirs, executors, administrators and assigns, all his personal property which may be seized and sold under execution and all his real estate, credits and effects (e).

To have and to hold unto the assignee, his heirs, executors, administrators and assigns, respectively, according to the tenure thereof.

Upon trust that the assignee, his heirs, executors, administrators and assigns shall sell and convey the real and personal estate and convert the same into money, and collect and call in the debts, dues and demands of the debtor.

And it is hereby declared that the assignee, his executors, administrators and assigns, shall stand possessed of the moneys derived from the sale of the real and personal estate, and of the moneys collected and called in, and all other moneys which the assignee, his heirs, executors, administrators and assigns, shall receive for or on account of the premises hereinbefore granted and assigned.

Upon trust, first, to pay the costs of and incidental to the preparation and execution of these presents; secondly, to deduct and retain such remuneration as shall be voted or fixed for him, the assignee, under the provisions of the said Act; thirdly, [to pay all preferential claims and liens (f) if any; fourthly,] the debts

(e) S. 5 of the Act says "Every assignment made under this Act, for the general benefit of creditors shall be valid and sufficient if it is in the words following, that is to say—all my personal property which may be seized and sold under execution and all my real estate, credits and effects, —or if it is in words to the like effect; and an assignment so expressed shall vest in the assignee all the real and personal estate, rights, property, credits and effects, whether vested or contingent, belonging at the time of the assignment to the assignor, except such as are by law exempt from seizure or sale under execution, subject, however, as regards lands, to the provisions of the registry law as to the registration of the assignment.

(f) The words within brackets are not found in most forms, but should, properly, be inserted, since certain liens are entitled to preference by law,

and liabilities of the debtor to the creditors, respectively, ratably and proportionately and without preference or priority, and the surplus, after payment of all claims, costs, charges and expenses in full, to hand over to the debtor.

The debtor appoints the assignee, his heirs, executors, administrators and assigns, his lawful attorney irrevocable in his name to do all matters and things, make, sign, seal and execute all deeds documents and papers necessary to more fully perfect in him the title to the lands, premises, goods and chattels, debts, dues, and demands hereby assigned or intended so to be, and to do all other acts, matters and things necessary to enable the assignee to carry into effect the intents of these presents.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### AFFIDAVIT OF EXECUTION

OF ASSIGNMENT FOR BENEFIT OF CREDITORS.

(R.S.O., c. 147, s. 13, s-s. 2.)

PROVINCE of —, ) I, —, of the — of — in the  
COUNTY of —, ) [county] of —, —, make oath and  
To Wit: ) say:

1. I was personally present and did see the within assignment [If a copy only is filed, say, did see the assignment of which the copy filed reports to be a copy] and duplicate thereof duly signed, sealed and executed by —, the parties thereto.

2. The said assignment and duplicate were executed at — on the — day of — 19—.

3. I know the said parties.

4. I am a subscribing witness to the said assignment and duplicate.

SWORN (g), etc.

e.g., s. 3, s-s. 5 of the Act says "Nothing herein contained shall affect the Act respecting Wages (R.S. O. c. 156), or shall prevent a debtor providing for payment of wages due by him in accordance with the provisions of the said Act;" while under R.S.O. c. 170, s. 34, a landlord has a preferential claim for rent due during the period of one year last previous to, and for three months following, the execution of the assignment and from thence so long as the assignee retains possession of the premises.

(g) See note (q) on p. 152.



## ASSIGNMENT FOR THE BENEFIT OF CREDITORS.

## ASSIGNMENTS AND PREFERENCES ACT.

(R.S.O., c. 147.)

*(Another form.)*

THIS ASSIGNMENT made the — day of — 19—, in pursuance (*h*) of the Act respecting Assignments and Preferences by Insolvent Persons, between — of the — of — in the province of —, —, hereinafter called the debtor, of the first part; — of the — of —, in the province of Ontario, —, hereinafter called the assignee (*i*), of the second part; and all persons, firms and corporations who are creditors (*j*) of the debtor, hereinafter called the creditors, of the third part.

WHEREAS the debtor, being unable to meet his liabilities as they mature, desires to make this assignment for the benefit of creditors.

NOW THIS ASSIGNMENT WITNESSETH that, for such purpose and in consideration of one dollar, the debtor doth hereby grant and assign to the assignee all his personal property which may be seized and sold under execution and all his real estate, credits and effects (*k*) save and except leases, leasehold estates and terms; and the debtor hereby assigns and transfers to the assignee all his right, title and interest in the lands, hereditaments and premises, and buildings, improvements and fixtures thereon, mentioned in or demised by any and all leases belonging to the debtor and in which the debtor has any interest, and in the term or terms of years therein mentioned save and except the last day thereof respectively; also all covenants and agreements for renewal and otherwise contained in any and all leases aforesaid and all benefit and advantage thereof; and as to the last day of the respective terms in any and all such leases mentioned it is hereby declared that the debtor shall be trustee thereof upon trust to assign and convey the same from time to time to such person or persons as and when the assignee may from time to time direct; and the debtor covenants with the assignee so to assign and convey.

(*h*) See note (*b*) on p. 145.

(*i*) See note (*c*) on p. 145.

(*j*) See note (*d*) on p. 145.

(*k*) See note (*e*) on p. 146.

The trust estate hereby assigned is to be held by the assignee upon the trusts and for the purposes following, viz.:

1. To sell and convey and convert the same into money, and collect and call in the debts, dues and demands of the debtor, or to sell and convey the same in whole or in part.

2. To apply all moneys received for or in respect of the trust estate hereby assigned, first, in payment of the costs of and incidental to the preparation and execution of this assignment; second, in payment of advances properly made and liabilities properly incurred by the assignee, and of proper expenses and outgoings for or in respect of the trust estate and the execution of the trusts hereof; third, in payment of such remuneration as may be legally voted or fixed for the assignee; fourth, [in payment of all preferential claims and liens (1), if any, fifth,] subject to and in compliance with the said Act and all other laws applicable, to pay to the creditors respectively, ratably and proportionately and without preference or priority, their just debts; fifth to pay the balance (if any) to the debtor.

3. The debtor appoints the assignee the debtor's lawful attorney irrevocable in the debtor's name to do all acts and things; make, sign, seal and execute all deeds, documents and papers necessary to the more fully perfecting in the assignee the title to the trust estate and each part thereof, and to do all other acts, matters and things necessary to enable the assignee to carry into effect the true intent and meaning of this assignment; and the debtor covenants with the assignee to execute such further and other formal and separate assignments and conveyances of the trust estate and each part thereof as may be necessary in order that the legal title thereto may be vested in the assignee for the purposes aforesaid.

4. Wherever the debtor is herein mentioned or referred to such mention or reference shall, if the debtor be a corporation, extend to and include the debtor's successors and assigns, and if the debtor be not a corporation such mention or reference shall extend to and include the debtor's heirs, executors, administrators and assigns, and wherever the assignee is herein mentioned or referred to such mention or reference shall extend to and include his heirs, executors, administrators and assigns and any

(1) See note (f) on p. 146.

other assignee who may succeed him or be appointed in his place as assignee of the trust estate.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[For "*Affidavit of Execution*," see p. 147.]

## NOTICE TO CREDITORS

BY ASSIGNEE OR TRUSTEE.

(R.S.O., c. 129, s. 38; c. 147, ss. 13, 17.)

IN THE MATTER of —, insolvent.

Notice (*m*) is hereby given that the above named insolvent, — of —, carrying on business as — at —, has made an assignment of his estate to me for the general benefit of his creditors under the Revised Statutes of Ontario, c. 147.

The creditors are notified to meet (*n*) at my office at —, in the [town] of —, on the — day of — 19—, at — o'clock in the [after] noon for the purpose of receiving a statement of the insolvent's affairs, for the appointment of inspectors and the giving of directions with reference to the disposal of the estate.

All persons claiming to be entitled to rank on the estate must file their claims (*o*) with me on or before the — day of — 19—, after which date I will proceed to distribute the assets thereof, having regard to those claims only of which I shall then have received notice.

[Place and date,<sup>h</sup>

X. Y.

Trustee.

[Address.]

(*m*) The notice of the assignment must be published at least once in the "Ontario Gazette" and not less than twice in one newspaper, at least, in the county in which the property is situate, and the notice must appear in the Gazette and newspaper issued first after five days from the execution of the assignment (s. 13; s. 14, s-s. 1). But the omission to publish, or any irregularity in the publication, does not invalidate the assignment, but only renders the assignor liable to a penalty (s. 14).

(*n*) The assignee must call this meeting within 5 days from the date of assignment, and for a date not less than 12 days after the mailing of the notice calling the meeting (s. 17).

(*o*) Particulars of the claim must be proved by affidavit (see form on p. 151) and such vouchers as the nature of the case admits of (s. 21, s-s. 1).

## NOTICE TO CREDITORS

NOTICE BY EXECUTOR (p) TO FILE CLAIMS.

(R.S.O., c. 129, s. 38.)

IN THE MATTER of the estate of A. B. late of the — of —, deceased.

NOTICE is hereby given that all persons having any claims or demands against the late A. B. who died on or about the — day of — 19— at — in the province of —, are required to send by post prepaid or to deliver to the undersigned, solicitors herein for C. D., executor and trustee under the will of the said A. B., their names and addresses and full particulars in writing of their claims and statements of their accounts and the nature of the securities, if any, held by them.

And take notice that after the — day of — 19—, the said C. D. will proceed to distribute the assets of the said deceased among the persons entitled thereto, having regard only to the claims of which he shall then have had notice, and that the said C. D. will not be liable for the said assets or any part thereof to any persons of whose claim he shall not then have received notice.

Dated at — the — day of — 19—.

[Name and address of solicitors.]

Solicitors for the said C. D.

## AFFIDAVIT OF CLAIM.

ASSIGNMENTS AND PREFERENCES ACT.

(R.S.O., c. 147, s. 21.)

CANADA:	{	IN THE MATTER of an Act respecting
Province of —,		Assignments and Preferences by Insolvent
[County] of —.		Persons, being R.S.O., c. 147. And in the
		matter of — of the — of — in the
		[county] of — and province of —,
To Wit:		debtor, and — of the — of — in the
		[county] of —, claimant.

I, — [name in full], of the — of — in the [county] of —, make oath and say:

(p) This notice may also be signed by an administrator, and the form adapted accordingly, and may be signed by him personally or by his solicitor.

1. I am the above-named claimant [*or*, a member of the above-named firm of claimants, *or*, the duly authorized agent of the above-named claimant].

2. The above named debtor is justly and truly indebted to me [*or*, the above-named claimant] in the sum of — dollars for [goods supplied to the said debtor at his order, and for promissory notes, bills of exchange, *or*, money lent, etc.], that is to say:— [*or*, and the particulars of the said indebtedness are set out in the statement hereto annexed].

3. I hold [*or*, the said claimant holds] no security whatever for the said claim or any part thereof [*or*, the following security, that is to say:—, which is of the value of — dollars].

SWORN *at*, etc.

#### NOTICE OF CONTESTATION OF CLAIM.

(R. S. O., c. 147.)

IN THE MATTER of an Act respecting Assignments and Preferences by Insolvent Persons, R.S.O., 1897, c. 147.

And in the matter of the estate of—.

To —.

You are hereby notified, pursuant to the provisions of the above Act and under the authority and direction of the creditors and inspectors of this estate, that I dispute your right to rank on the estate of the above-named insolvent for \$—, the amount of your claim filed with me, or for any part thereof.

And you are hereby further notified that unless within thirty days after the receipt by you of this notice, or within such further time as may be allowed on application to the proper judge in that behalf, an action is brought against me to establish the said claim, and within the same time a copy of the writ or process is served upon me or my solicitor herein named, your claim to rank upon the estate shall be forever barred.

(*q*) Any affidavit authorized, or required, under this Act may be sworn before any person authorized to administer affidavits in the High Court, or before a justice of the peace, or, if sworn out of Ontario, before a notary public, or a commissioner authorized to administer affidavits for use in Ontario (Ont. 1904, c. 10, s. 34).

And you are hereby further notified that service of any writ or process to enforce the said claim may be made upon my solicitor, A. B. of, etc.

Dated at — the — day of — 19—.

—, Assignee.

### AFFIDAVIT OF CLAIM.

#### CREDITORS' RELIEF ACT.

(R.S.O., c. 78, Sch. Form B.)

In the county court of the county of — [state county or united counties in which it is intended proceedings shall be taken].

[A.B.] Claimant *versus* [C.D.] Debtor.

I [A.B.], of — in the county of —, merchant [or as the case may be], make oath and say:

1. I am the above-named claimant (*r*) [or, the duly authorized agent of the claimant in this behalf and have a personal knowledge of the matters hereinafter deposed to].

2. The above-named debtor is justly and truly indebted to me [or, to the above named claimant] in the sum of \$—, for [here state shortly the nature and particulars of the claim as they are required to be stated upon a specially endorsed writ].

SWORN (*s*), etc.

### COMPOSITION AGREEMENT

#### WITH SURETY.

(*Long form.*)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the debtor, of the first part; — of the — of —, in the county of —, —, hereinafter called the surety, of the second part; and all and every the creditors of the debtor, hereinafter called the creditors, of the third part.

(*r*) This affidavit may be made by one of the creditors in the case of a joint debt, or by a person cognizant of the facts (R. S. O. c. 78, s. 7, s-s. 1).

(*s*) This affidavit may be sworn before any person authorized to administer affidavits in the High Court, or before a justice of the peace, or, if sworn out of Ontario, before a notary public or a commissioner authorized to administer affidavits for use in Ontario (Ont. 1904, c. 10, s. 34).

WHEREAS the debtor is unable to pay his liabilities in full, and his creditors have agreed with him for a composition and discharge upon the terms and conditions hereinafter mentioned.

NOW THIS INDENTURE WITNESSETH that in consideration of his indebtedness and of the discharge hereby given, the debtor and the surety do and each of them doth covenant and agree with all the debtors creditors collectively and severally that they will pay to them and each of them respectively a composition of — cents in the dollar of their respective claims against the debtor in the manner and at the times following, that is to say: — cents in the dollar in — months from the — day of — 19—; — cents in the dollar in — months from the said date; and —. And that they will give to each of the creditors their promissory notes for such composition payments bearing date on the said — day of — 19—, and payable according to the times of the said respective composition payments.

And the debtor and the surety further covenant and agree to pay the charges and expenses of and incidental to the preparation and execution of this deed and of carrying out and completing the composition and discharge hereby effected.

And in consideration of the said composition payments so to be made the creditors do and each of them doth hereby release and discharge unto the debtor all their respective claims against him.

Provided always that nothing herein contained shall operate any change in the liabilities of any person secondarily liable to the creditors, or any of them, for the debts of the debtor either as drawer or endorser of negotiable paper, or as guarantor, surety or otherwise, nor of any partner or other person liable jointly or severally with the debtor to the creditors, or any of them, for any of the said debts; nor shall it affect any mortgage, hypothec or lien on the estate or property of the debtor or on any portion thereof, nor shall it affect any collateral security held by any of the creditors as security for any debt hereby discharged; but nevertheless, if any such security shall be enforceable against the debtor, or against his estate or effects, then and in that case such creditor (unless he shall consent to abandon his said security) shall be entitled to receive payment in respect of his secured debts under these presents upon so

much only of his so secured debts as may remain after such security shall have been realized, or after credit shall have been given for the full value thereof, such value to be ascertained by such creditor furnishing the debtor with a statutory declaration of his claim, with a valuation of such security, and the debtor may thereupon allow the said creditor to retain such security at such valuation; and in that event shall release to the creditor all his estate, right, title and interest in such security, or the debtor may elect to pay the amount at which the said security is valued, and thereupon and upon payment of such sum within one month after such statutory declaration shall have been furnished as aforesaid such creditor shall forthwith release and reconvey to the debtor all his estate, right, title and interest in such security, but in default the debtor shall be bound, on demand, to release to such creditor all estate, right, title, interest and equity of redemption in such security.

And the creditors do hereby direct and authorize the trustee of the estate of the debtor, or any person to whom the debtor's estate may at any time hereafter, pending the completion of this arrangement for composition and discharge, be assigned in trust, to deliver up and convey to the debtor all his estate and effects upon this agreement of composition and discharge being executed by the creditors, and upon the debtor depositing with him the composition notes for the creditors as aforesaid, and paying the said expenses and privileged claims.

IN WITNESS, etc.

SIGNED, SEALED AND DELIVERED by each party hereto, in the presence of the witness whose name is set opposite to the signature of each party respectively.

Signatures of witnesses.	Signatures of parties.	Seals.
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### COMPOSITION AGREEMENT

WITH SURETY.

(Another form.)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, herein-after called the debtor, of the first part; — of the — of



—, —, hereinafter called the surety, of the second part;  
— of the — of —, —, hereinafter called the trustee,  
of the third part; and all and every the creditors of the debtor,  
hereinafter called the creditors, of the fourth part.

WHEREAS the debtor is unable to pay his liabilities in full  
and his creditors have agreed with him for a composition and  
discharge upon the terms and conditions hereinafter mentioned.

AND WHEREAS the surety has agreed to join in these presents  
in the manner hereinafter appearing.

NOW THIS INDENTURE WITNESSETH that in consideration of  
the premises and of the discharge hereby given, the debtor and  
surety jointly and severally covenant and agree with the trustee  
that they or one of them will pay to the trustee in trust for the  
creditors respectively a composition of — cents in the dollar  
of their respective claims against the debtor [mentioned in the  
schedule hereto annexed] in manner and at the times following,  
that is to say: — cents in the dollar in — months from the  
— day of — 19—, and — cents in the dollar in — months  
from the said date [*or as may be agreed*], and that the debtor will  
forthwith give to each of the creditors his promissory notes for  
such composition payments bearing date on the said — day of  
— 19—, and payable according to the times of said respective  
composition payments, and such notes shall be endorsed by the  
surety and shall be made payable at the respective places of  
business of the creditors; and the surety hereby covenants that  
he will forthwith endorse the said notes above mentioned, which  
notes shall be given and received as collateral to the said indebted-  
ness.

And the debtor and surety jointly and severally further  
covenant and agree to pay the privileged claims against the  
debtor's estate in full, also the charges and expenses of and  
incidental to the preparation and execution of this deed and of  
carrying out and completing the composition and discharge  
hereby effected.

And in consideration of the said composition payments so to  
be made the creditors do and each of them doth hereby release  
and discharge unto the debtor all the remainder of their re-  
spective claims against him.

[Insert, if desired, the paragraph as to collateral security in the preceding form, p. 154.]

Provided that the giving of time to the debtor or any arrangement made with the debtor at any time without the consent of the surety shall not be held to discharge or release the surety from any liability incurred hereby.

Provided that if default be made in payment of the said notes or any part thereof, or in the performance of any of the covenants herein contained, or if before the payment in full of the said notes any of the real or personal estate and property, credits and effects of the debtor be seized or taken under any writ or process, or if the debtor make any assignment for the benefit of creditors, then the original claims of the creditors shall at once revive and become payable against the debtor with interest, credit being given for any sums paid on account.

[Here insert such clauses from "Extension Agreement," p. 159, as may be required.]

And the creditors do hereby direct and authorize the trustee to deliver up and convey to the debtor all his estate and effects upon this agreement of composition and discharge being executed by the creditors, and upon the debtor depositing with him the composition notes for the creditors as aforesaid and paying the said expenses and privileged claims in full.

This deed shall take effect and become operative only when executed by all the creditors whose claims respectively are for — dollars and upwards, but not before.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### COMPOSITION AGREEMENT

WITH SURETIES.

(Short form.)

AGREEMENT made the — day of — 19—, between — of —, [trading under the firm name of —,] hereinafter called the debtor, of the first part; — of — and — of —, hereinafter called the sureties, of the second part; and the several persons, firms and corporations who are creditors of the debtor, hereinafter called the creditors, of the third part.

WHEREAS the debtor has become involved and unable to pay his liabilities in full, and a settlement has been agreed upon with his creditors on the terms hereof.

NOW THESE PRESENTS WITNESS that the agreement between the parties in the premises is as follows: The debtor shall pay and the creditors shall accept in full settlement and discharge of their respective claims a composition of — cents in the dollar thereof, payable in — equal instalments at — months respectively from the date hereof, [without interest], the debtor's notes therefor to be endorsed by the sureties and handed to the creditors respectively, the sureties to pay the said notes in case of default by the debtor.

This agreement not to be binding unless and until executed by all creditors having claims of — dollars or over, [whose names are set out in the schedule hereto annexed.]

All of which the said parties each for himself and themselves, his and their executors and administrators, covenants and agrees to and with the other and others of them, his and their executors, administrators and assigns, faithfully to abide by, perform and keep.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### COMPOSITION AGREEMENT

WITHOUT SURETY.

(Short form.)

IN THE MATTER of — of the [town] of —, [merchant.]

We, the undersigned creditors of the above named —, [debtor] do hereby respectively agree to accept from him in satisfaction of our respective claims against him the sum of — cents on the dollar of our respective claims, to be paid [in cash] within — days from this date.

[Provided however that all creditors of the above named — having claims against him of more than — dollars consent hereto within — days from this date.]

Dated at — the — day of — 19 —

WITNESS:

## EXTENSION AGREEMENT

*(With special clauses.)*

THIS AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, hereinafter called the debtor, of the first part; the several persons, firms and corporations who are creditors of the debtor, hereinafter called the creditors, of the second part; and — of —, hereinafter called the trustee, of the third part.

WHEREAS the debtor has heretofore carried on business at the — of —, and has become indebted to divers creditors, [whose names and particulars of whose claims are set forth in the schedule hereto annexed.]

AND WHEREAS the debtor has requested the creditors to extend the time for the payment of the said indebtedness, which they have agreed to do in consideration of these presents.

NOW THIS AGREEMENT WITNESSETH that it is agreed between the parties hereto that the times for payment of the sums due by the debtor to his creditors shall be extended, and that the said sums shall become due and be paid in — equal consecutive [monthly] instalments, on the — day of each month, with interest at — per cent per annum, in lieu of the terms of payment heretofore existing, the first of such [monthly] payments to be made on the — day of — 19—; and in consideration of such extension of time the debtor covenants with the creditors respectively that he will pay to the creditors respectively the said payments as and when they become due; and also the charges and expenses of and incidental to the preparation and execution of these presents, and of carrying out and completing the extension and discharge hereby effected or to be effected.

*Debtor to give notes.*

Provided that the debtor will forthwith give his promissory notes for such extended payments, dated as aforesaid, which notes shall be made payable at the respective places of business of the creditors, and the said notes shall be given and received by the creditors as collateral security to the said indebtedness.

*Debtor to insure stock-in-trade.*

And the debtor will insure and keep insured, until the creditors have been fully paid, his stock-in-trade in the sum of

—dollars at least, and will assign and transfer to the trustee all such policies of insurance and all moneys payable thereunder as collateral security for the payment of the said indebtedness to the creditors respectively.

*Debtor to keep accounts.*

And that the debtor will from the date hereof keep books of account in which he shall enter daily as they occur the different transactions of his business, and that the trustee who is hereby appointed the agent of the several parties hereto may at all times inspect such books and investigate generally the affairs of the debtor.

*Power of trustee to take possession.*

And that upon default being made in the payment of any of the extended amounts, or upon judgment being obtained against the debtor, or in the event of his disposing of his stock or other assets other than in the ordinary course of business by retail, or in the event of the stock or premises of the debtor being injured or destroyed by fire, or in the event of his business being in any way neglected or depreciated, then the balance of the claims of the creditors shall at once become due and be payable, and the trustee may enter into possession of the assets of the debtor for and on behalf of the creditors, who hereby nominate, constitute and appoint the trustee their attorney irrevocable for the purpose of executing in their name a legal assignment to himself of all the assets of the debtor in trust for the benefit of the creditors.

And the debtor hereby appoints the trustee his true and lawful attorney, for him and in his name, to execute such assignments and do such other acts as may be necessary to vest the estate and effects in the trustee for the purposes aforesaid.

*Securities held by creditors.*

Provided that nothing herein contained shall prejudice or affect any security held by any creditor or any rights and remedies which any creditor may have against any person or persons other than the debtor for or in respect of his debt or any part thereof, or release or discharge any person or persons liable to the creditors or any of them as surety, guarantor or otherwise.

*Debtor not to part with property.*

And the debtor further covenants with the creditors respectively that until the due payment of his said indebtedness to them he shall not nor will convey, part with or encumber his real or personal estate, or any part thereof, whether now the property of the debtor or hereafter acquired, except in the ordinary and usual course of retail business, or assign or pledge any debts or sums of money which are now or hereafter may be due or owing to him.

*Debtor to assign to trustee.*

And that he shall and will, in case of default in payment of the said sums or any part thereof hereby covenanted to be paid, forthwith assign and transfer all his said estate and effects, both real and personal, of which he shall then be seized, possessed or entitled, and all moneys then due or owing to him, to the trustee in trust for the creditors to collect and realize the same and divide the proceeds thereof ratably and proportionately between the creditors. And the debtor declares the within statement represents correctly and truly the condition of his affairs.

*Trustee may pay creditors not assenting.*

And the trustee may, in his discretion, pay in full or make any compromise or arrangement which he shall think proper with any creditor, whether secured or not, who shall refuse to execute these presents for the payment of the claim of such creditor, and may pay the costs of any such creditor who may institute any proceedings against the debtor to recover the amount of his claim.

*After default, agreement to be void at creditor's election.*

Provided and it is hereby agreed that if any of the said notes shall not be paid at the time when they respectively become due, or if there shall be default made in the performance of any covenant on the part of the debtor herein contained, then in such case any creditor in respect of whom such default shall have been made may elect that these presents shall, subject to the agreements hereinafter contained, be void, but without prejudice to anything theretofore done in pursuance hereof.

*Agreement to become absolute upon conditions.*

This agreement shall take effect and become operative only when it has been executed by all creditors having claims of — dollars and upwards within — days from this date.

It is intended that this agreement of extension shall be executed by all the creditors of the debtor, and that it shall be held by the trustee as an escrow until so executed, but the trustee may nevertheless waive execution by not more than — of such creditors if he thinks it in the interest of the creditors to do so.

IN WITNESS, etc.

SIGNED, SEALED, etc. \_\_\_\_\_

## EXTENSION AGREEMENT.

*(Short form.)*

IN THE MATTER of — of the [town] of —, [merchant].

We the undersigned creditors of the above named —, do hereby respectively agree to accept payment of our claims against him in [eighteen] equal consecutive monthly instalments payable on the — day of each month, commencing on the — day of — 19—, without interest. The said payments to be covered by the promissory notes of the said — in favour of the creditors respectively.

This extension is subject to the following conditions:

1. All creditors of the said — having claims against him of more than [fifty] dollars are to consent hereto within [ten] days from this date.
2. The said — is to insure and keep insured his stock in trade to the amount of its full insurable value and is to transfer the said insurance within [ten] days from this date to — as trustee for the creditors agreeing to this extension.
3. The said — is not to alienate or encumber his business or stock in trade or assets and is not to sell or deal with his business or stock in trade or assets except in the ordinary course of retail business.
4. This extension is not to in any way affect or prejudice the rights or remedies of the creditors and each of them against

any person other than the said — or against or in respect of any surety or security.

5. The said — is within [ten] days from this date to pay all expenses incurred in connection with the taking of stock and the carrying out of this extension.

6. If any default whatsoever be made in payment or in the observance of any of the provisions of this agreement, or if any proceedings be taken against the said —, the original claims of the creditors shall at once revive and be immediately payable with interest, credit being given for any sums paid on account.

Dated this — day of — 19—.

WITNESS:

### PROXY

TO ACT AT MEETINGS OF CREDITORS.

I, the above named claimant, hereby authorize and empower — [& Co., or any member of that firm.] to represent me at all meetings of creditors in this matter, and to vote and act for me in this matter, and in all respects to represent me as if I were present and acting in the premises, with power of substitution and delegation.

Dated at — the — day of — 19—.

SIGNED in the presence of }

### RECONVEYANCE

BY TRUSTEE TO DEBTOR.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the trustee, of the one part, and — of —, hereinafter called the debtor, of the other part.

WHEREAS by indenture of assignment dated the — day of — 19—, made between the debtor, of the first part, the trustee, of the second part, and the creditors of the debtor, of the third part, the debtor granted and conveyed to the trustee, as trustee for the creditors, all his personal property which might be seized and sold under execution and all his real estate, credit and effects upon the trusts in the said indenture of assign-



ment mentioned, the said real estate including among other lands —.

AND WHEREAS by an agreement dated the — day of — 19—, made between the debtor, of the first part, — of —, therein called the surety, of the second part, and the creditors, of the third part, the creditors authorized the sale and transfer to the debtor of the said property, estate, credits and effects so assigned as aforesaid in consideration of the payment by him of — cents in the dollar of the respective claims of the creditors.

AND WHEREAS the debtor has deposited with the trustee notes for such composition payments endorsed by the surety, or has otherwise satisfied the trustee of his having settled with the creditors in accordance with the terms of the said agreement, or otherwise to the satisfaction of the creditors, and has requested the trustee to transfer and assign to him, the debtor, the said property, estate, credits and effects.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum of one dollar now paid by the debtor (the receipt whereof is hereby acknowledged), the trustee doth hereby grant, bargain, sell, assign, transfer and set over unto the debtor his heirs, executors, administrators and assigns forever, all his estate, right, title and interest in and to all and singular the personal property, stock-in-trade, goods, chattels and shop furniture, book debts, accounts, bills, bonds, notes, choses in action, rights, credits, effects and other assets whatsoever, and also the real estate, lands, tenements and hereditaments granted, bargained, sold, assigned, transferred and set over to the trustee by the said indenture of assignment, including among other lands —.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### CONDITIONAL SALE OF CHATTELS.

#### AGREEMENT BETWEEN ASSIGNEE AND A PURCHASER.

AGREEMENT made this — day of — 19—, between — of the — of —, —, hereinafter called the vendor, of the one part, and — of the — of —, —, hereinafter called the purchaser of the other part.

WHEREAS by an indenture dated the — day of — 19—, and made in pursuance of the Act respecting Assignments and Preferences by Insolvent Persons, X.Y. of —, [merchant], did grant and assign to the vendor, his heirs, executors, administrators and assigns, all his personal property which may be seized and sold under execution, and all his real estate, credits and effects, in trust for the creditors of the said X.Y., as therein set forth.

AND WHEREAS the vendor, as such assignee as aforesaid has, [with the approval of the duly appointed inspectors of the estate of the said X.Y.,] agreed to sell to the purchaser that portion of the personal property, credits and effects of the said X.Y. so assigned to the vendor as aforesaid and hereinafter described.

NOW THIS INDENTURE WITNESSETH that the parties hereto, for themselves, their executors, administrators and assigns, covenant and agree to and with each other as follows:

1. The purchaser agrees to buy from the vendor and the vendor as such assignee as aforesaid, agrees to sell to the purchaser all the stock in trade, furniture, fixtures, goods, chattels and book debts, formerly belonging to the said X.Y., and assigned by him to the vendor.

2. The purchaser agrees to pay therefor the sum of — dollars of lawful money of Canada in — equal consecutive monthly instalments of — dollars each on the — day of each month, commencing on the — day of — 19—, together with interest from this date at the rate of — per cent per annum on the amount from time to time remaining unpaid until fully paid and satisfied, together with all premiums for insurance as hereinafter provided, together with all costs, charges and expenses, if any, at any time incurred under this agreement.

3. The said stock in trade, furniture, fixtures, goods, chattels and book debts, and the proceeds thereof, and of every part thereof, whether in cash, book debts or other security, shall remain and be the property of the vendor until the said purchase price of — dollars, together with all interest, premiums, costs, charges and expenses, shall have been fully paid and satisfied.

4. All other stock in trade, furniture, fixtures, goods and chattels, which the purchaser shall at any time during the

currency of this agreement acquire or have in his possession, or in the possession of any other person for him, in any premises in which the purchaser may at any time during the currency of this agreement be carrying on business, in addition to or in substitution for the aforesaid stock in trade, furniture, fixtures, goods and chattels, or any of them, shall at once vest in and become the property of the vendor, subject to the terms of this agreement.

5. The purchaser shall sell and dispose of the said stock in trade, furniture, fixtures, goods and chattels, so purchased as aforesaid by the purchaser from the vendor, and all other stock in trade, furniture, fixtures, goods and chattels, hereafter purchased or acquired, only in the ordinary course of retail business, and for cash [*or*, two weeks credit] only, and shall on the [Monday] of each week commencing on the — day of — instant, remit to the vendor at — all moneys received by him during the preceding week, over and above such sum as shall out of that week's gross receipts be allowed by the vendor in the exercise of an absolute and uncontrollable discretion, for running expenses and for the purchase of new goods, such net receipts to be credited by the vendor on account of payments due or accruing due under this agreement.

6. The purchaser shall also collect the said book debts as soon as is reasonably possible, and shall on the [Monday] of each week, commencing on [Monday] the — day of — instant, remit the amount collected to the vendor at —, to be credited by him on account of payments due or accruing due under this agreement.

7. The said stock in trade, furniture, fixtures, goods and chattels, so purchased as aforesaid by the purchaser from the vendor and all other stock in trade, furniture, fixtures, goods and chattels, hereafter purchased or acquired by him, shall be insured and kept insured by the vendor for the sum of not less than — dollars, and the premiums paid from time to time in respect of the said insurance shall form part of the purchase price to be paid by the purchaser to the vendor under this agreement and shall be repaid forthwith by the purchaser to the vendor, and in case of loss by fire any surplus after payment in full of what shall then be due to the vendor shall be paid to the purchaser by the vendor

8. As soon as the full amount of the said purchase money, together with all interest, premiums, costs, charges and expenses, shall have been paid by the purchaser to the vendor, but not until then, the purchaser shall become the absolute owner of the said stock in trade, furniture, fixtures, goods, chattels and book debts.

9. Provided always and it is hereby agreed between the parties hereto that should the purchaser make default in the performance or observance of any of the provisions of this agreement, or should he abscond, or be sued, or die, or become bankrupt or insolvent, or make an assignment for the benefit of his creditors, or should the vendor at any time feel in any respect insecure in respect to the payments due or accruing due to him under this agreement, or should he deem it advisable in the exercise of an absolute and uncontrollable discretion, so to do for his own protection, he may at any time take possession of all the said stock in trade, furniture, fixtures, goods and chattels, so purchased as aforesaid by the purchaser from him, and of all stock in trade, furniture, fixtures, goods and chattels, hereafter purchased or acquired by the purchaser, and may sell and dispose of the said stock in trade, furniture, fixtures, goods and chattels, or any of them, in such manner and at such times as he may see fit, and may collect any book debts still outstanding, and the purchaser shall be liable for any balance which shall still be due for purchase money, interest, premiums, costs, charges and expenses, and shall be entitled to any surplus which shall remain after payment in full of all purchase money, premiums, costs, charges and expenses.

10. Provided also and it is hereby further agreed between the parties hereto that instead of taking possession and selling under the powers contained in the preceding paragraph hereof the vendor may upon the happening of any of the contingencies mentioned in the preceding paragraph hereof, or whenever in the exercise of an absolute and uncontrollable discretion he thinks it advisable so to do, make an assignment for the general benefit of the creditors of the purchaser in the name and on behalf of the purchaser and as his attorney, in favour either of the vendor or of any other person he may see fit to choose. And the purchaser hereby appoints the vendor his true and lawful attorney

for him and in his name and on his behalf to make such an assignment for the benefit of his creditors.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### DEED OF SALE AND RELEASE.

#### CONVEYANCE BY ASSIGNEE TO A PURCHASER WITH ASSENT OF CREDITORS.

THIS INDENTURE made the — day of — 19—, between — of the — of —, in the county of —, assignee of the estate and effects of — of the — of —, in the county of —, hereinafter called the assignee, of the first part; the said —, hereinafter called the debtor, of the second part, — of the — of —, in the county of —, —, hereinafter called the purchaser, of the third part. And all and every of the creditors of the debtor, hereinafter called the creditors, of the fourth part.

WHEREAS the debtor, being unable to meet his liabilities in full, did, on the — day of — 19—, by an indenture bearing the said date, duly grant, assign, transfer and set over all his property and effects to the assignee for the benefit of the creditors, pursuant to the provisions of the statutes and law in that behalf.

AND WHEREAS the purchaser has offered to purchase the whole of the said estate, property, assets and effects for a sum equal to — cents on the dollar of the liabilities of the debtor entitled to rank on his estate, payable as hereinbefore mentioned, and, in addition, to pay the charges and expenses of and incidental to the said assignment, and the preferential claims upon the said estate in full, upon the terms hereinafter mentioned.

NOW THIS INDENTURE WITNESSETH that the assignee hereby sells to the purchaser, and the purchaser hereby buys from the assignee, all the real and personal estate, rights, property, credits and effects, whether vested or contingent, which belonged at the time of the said assignment to the debtor, and which, by virtue of the said assignment became vested in him as such assignee, as the said property now stands, subject to the liens and incumbrances, if any, existing thereon at the time of the

said assignment, which the purchaser hereby assumes and agrees to indemnify the assignee against, upon the terms following, viz.:

The purchaser to deposit with the assignee for the respective creditors of the debtor —[*here state purchase moneys, and other considerations or property, if any*].

The purchaser also to pay to the assignee, or the assignee to deduct from the moneys which may come to his hands belonging to the said estate, a sum sufficient to enable him to pay in full all the privileged claims upon the said estate, the assignee's remuneration, and the charges and expenses of and incidental to the said assignment to him, and to the preparation and execution of these presents, and to the carrying out and completion of the sale hereby effected.

Possession of the estate hereby sold and purchased to be delivered over to the purchaser upon his depositing the purchase moneys and considerations hereinbefore mentioned, and all formal assignments and conveyances which may be requisite to vest the said property, assets and effects in the purchaser to be then executed.

The creditors, the parties hereto of the fourth part, do hereby respectively assent to the foregoing, and do accept the said purchase moneys and considerations aforesaid in full of their respective claims, and do hereby respectively release and discharge the debtor from all their respective claims against him.

Provided always that the creditors hereby expressly reserve their rights and remedies against persons other than the debtor; and nothing herein contained shall operate any change in the liability of any person secondarily liable to the creditors, or any of them, for the debts of the debtor, nor of any other person liable jointly or severally with the debtor to the creditors, or any of them, for any of the said debts, nor shall it affect any mortgage, lien or security upon the estate or property of the debtor, or on any portion thereof, except as hereinafter provided, nor shall it affect any collateral or other security held by any of the creditors against persons, other than the debtor, as security for any debt hereby discharged; but, nevertheless, if any such security shall be held, or be enforceable against the estate or effects of the debtor, or on the estate of a third party for whom such debtor is only secondarily liable, then, and in that case, such creditor

(unless he shall consent to abandon his said security) shall be entitled to receive payment of his secured debts under these presents upon so much only of his so secured debt or debts as may remain after such security shall have been realized, valued or dealt with pursuant to the statutes in that behalf, or as the law may direct.

These presents shall become operative and take effect when they have been executed by all the creditors of the debtor, but not before.

Provided also that the assignee may, if he thinks fit, waive the execution hereof by any creditor or creditors, and carry out the provisions hereof.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals in the presence of the witness whose name is set opposite the signature of each party respectively.

Signatures of witnesses.	Signatures of parties.	Seals.
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## SALE OF BOOK DEBTS

BY TRUSTEE FOR CREDITORS.

KNOW ALL MEN by these presents that I, —, of the — of — in the county of —, the trustee for the creditors of the estate and effects of — [debtor], under a certain deed of assignment dated the — day of — 19—, in consideration of the sum of — dollars, the receipt whereof is hereby acknowledged, do hereby sell and assign to — of the — of — in the county of —, accepting thereof all my right, title and interest as such trustee to the claims and demands set out in the schedule hereto annexed, marked with the letter A, of the said — [debtor] against the parties whose names are set out in the said schedule, but without any warranty, representation or assurance whatsoever of any kind, not even that the debts are due.

AS WITNESS my hand and seal this — day of — 19—.

SIGNED, SEALED, etc.

## POWER OF ATTORNEY

## TO WIND UP DEBTOR'S BUSINESS (1).

To all to whom these presents shall come:

WHEREAS I, A.B. of —, merchant, have heretofore carried on business as — under the style and firm of —;

AND WHEREAS in the course of such business I have become indebted to divers creditors whose names and the amounts of whose claims are set out in schedule A hereto;

AND WHEREAS it has been decided to wind up the said business and to sell and distribute the assets thereof among the said creditors;

AND WHEREAS C.D. of —, —, has consented at my request to take upon himself the burden of winding up the said business, and distributing the assets thereof.

NOW KNOW YE that I, A.B., do hereby appoint the said C.D. my attorney and agent for the purposes aforesaid, and do hereby authorize and direct him to enter into possession of the store and premises at — in which I have heretofore carried on business, and to take possession of the stock in trade, books of account, policies of insurance, bills, notes, securities, book debts and all other assets of the said business, and to proceed with all reasonable diligence to sell and dispose of the stock in trade and other assets in such manner and upon such terms as my said attorney shall think best, and to collect or sell the book debts and accounts due to me.

And I do hereby further direct my said attorney from time to time when sufficient funds shall have been realized for that purpose to make a pro rata distribution of the moneys on hand among my said creditors without preference or priority, the residue, if any, remaining after my said creditors shall have been paid in full, to be paid to me.

I hereby authorize my said attorney, if he shall think fit, to sell the stock in trade or any part thereof, and the said book debts or any of them at a rate on the dollar. I also authorize

(1) This form is drawn to avoid the publicity of a statutory assignment and can be used to advantage when it is perfectly certain that all the creditors are ascertained. In dealing with an estate in this way it is necessary to exercise great care in order to avoid any complication with possible creditors whose names are not given by the debtor.



him to compound debts and generally to exercise all the powers for the purpose of realizing, collecting and distributing the said assets which I could exercise if personally present, and to execute such assignments of choses in action, and such releases, and discharges, as my said attorney shall think proper or necessary for any of the purposes aforesaid.

I hereby declare that in schedule A hereto is a full and correct list of my creditors and of the amounts due to them respectively, and that in schedule B hereto is a full and correct statement of my assets.

I hereby declare that this power of attorney is irrevocable, and that I will not in any way interfere with my said attorney in the winding up of the said business but will give to him such assistance as I can to enable him to carry out the true intent and purpose of this power of attorney.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## ASSIGNMENTS.

### ASSIGNMENT OF INSTRUMENT.

#### BY ENDORSEMENT.

KNOW ALL MEN by these presents that I, —, of —, within named, in consideration of — dollars to me paid by — of —, (the receipt whereof I hereby acknowledge,) do hereby sell, assign and transfer to the said — and his assigns all my interest in the within written instrument, and every covenant, article or thing therein contained.

To have and to hold the same to the said —, with power to take all lawful measures which I might myself have taken for the full recovery and enjoyment of all rights and provisions mentioned in the said instrument.

IN WITNESS whereof I have hereunto set my hand and seal this — day of — 19—.

SIGNED, SEALED AND DELIVERED }  
in the presence of }

### ASSIGNMENT OF ARTICLES OF CLERKSHIP.

(Form approved by Law Society of Upper Canada (a).)

THIS INDENTURE made (in duplicate) the — day of — 19—, between S.S., of the — of — in the county of —, one of the solicitors of the Supreme Court of Judicature for Ontario, of the first part; B.A., of the same place, student-at-law, of the second part; and E.F., of the — of — in the county of —, one of the solicitors of the said court, of the third part.

WHEREAS by articles of clerkship bearing date the — day of — 19—, made between the said B.A. and A.A. [his father or, guardian, or as the case may be], and the said S.S., the said

(a) An assignment of articles of clerkship must not be sent to the Secretary of the Law Society but must be filed in the Central Office at Osgoode Hall, Toronto, within 3 months from date of execution, otherwise the term of service will date from the date of filing the assignment.

B.A., of his own free will did put, place, and bind himself clerk to the said S.S. to serve him from the day of the date thereof for, during and until the full end and term of — years from thence next ensuing, and fully to be completed and ended, subject to the several covenants therein contained.

[(b) AND WHEREAS by virtue of assignment of the said articles the said B.A. is now under contract of service with the said —.]

AND WHEREAS the said B.A. hath served the said S.S. as his clerk from the day of the date of the said articles of clerkship to the day of the date of these presents.

AND WHEREAS it has been agreed that the said S.S. shall assign to the said E.F. all benefit and advantage of him the said B.A. under or by virtue of the said recited articles of clerkship for all the residue now to come and unexpired of the said term of — years; and it has been further agreed that the said B.A. shall put, place and bind himself as clerk to the said E.F. from the day of the date of these presents for the remainder of the said term, and for such further period [if any] as may be necessary to complete the full term of — years' service under articles.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement he, the said S.S., at the request and with the consent of the said B.A., testified by his being a party to these presents, hath assigned, transferred and set over, and by these presents doth assign, transfer and set over unto the said E.F., all benefit and advantage, interest, claim and demand whatsoever of him the said S.S. under the hereinbefore in part recited articles of clerkship, and the service of him the said B.A. under or by virtue of the same, to have and to hold all right and interest whatsoever of him the said S.S. in and to the service of him the said B.A. under or by virtue of the same unto the said E.F., his executors, administrators and assigns.

AND THIS INDENTURE FURTHER WITNESSETH that the said B.A. of his own free will testified as aforesaid hath put, placed and bound himself, and by these presents doth put, place and bind himself clerk to the said E.F., to serve him from the day

(b) This recital is not necessary in the case of the first assignment.

of the date of these presents for and during the remainder of the said term of — years, and fully to be completed and ended.

And the said B.A. doth hereby covenant with the said E.F., his executors, administrators and assigns, that the said B.A. shall and will well, faithfully and diligently serve the said E.F. as his clerk in the practice and profession of a solicitor of the Supreme Court of Judicature for Ontario from the date hereof during the remainder of the hereinbefore recited term of — years according to the terms and conditions of the said hereinbefore mentioned articles of clerkship as therein set forth.

In consideration whereof, and of — paid by the said S.S. (the receipt whereof the said E.F. doth hereby acknowledge), the said E.F. for himself, his heirs, executors and administrators, doth hereby covenant with the said S.S. that the said E.F. will accept and take the said B.A. as his clerk, and also that the said E.F. will observe and be bound by the terms and conditions of the said articles of clerkship in so far as the same were binding on the said S.S.

IN WITNESS whereof the said parties to these present have hereunto set their hands and seals on the day and date first above mentioned.

SIGNED, SEALED AND DELIVERED  
by the above-named parties  
in the presence of

[For Affidavit of Execution, see p. 83.]

# ASSIGNMENT OF BOND

## WITH COVENANTS BY ASSIGNOR.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the one part, and —, of —, hereinafter called the assignee, of the other part.

WHEREAS by a certain bond dated the — day of — 19—, one — bound himself unto the assignor in the penal sum of — dollars; and whereas the assignor has agreed to assign to the assignee the said bond and the moneys secured thereby.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged), the assignor doth hereby assign unto the assignee, his executors, administrators and assigns, the principal sum of — dollars secured by the said bond, and all interest henceforth to become due thereon, and also the said bond and the full benefit and advantage thereof; to hold the same unto the assignee, his executors, administrators and assigns, absolutely.

And the assignor doth hereby for himself, his executors and administrators, covenant with the assignee, his executors, administrators and assigns, that the said principal sum of — dollars is now owing on the said bond, together with the sum of — dollars for arrears of interest thereon.

And the assignor further covenants that he hath good right to assign the said bond debt, and that he, the assignor, and all persons claiming under him will execute such further assurances of the said bond debt unto the assignee, his executors, administrators and assigns, as may be required (c).

IN WITNESS, etc.

SIGNED, SEALED, etc.

### ASSIGNMENT OF BOND

#### BY ENDORSEMENT.

KNOW ALL MEN by these presents that I, —, of —, in consideration of the sum of — dollars to me paid by — (the receipt whereof I hereby acknowledge), do hereby assign, transfer and set over unto — of —, his executors, administrators and assigns, the within bond and all moneys thereby secured and all benefit and advantage to be derived therefrom, and all my right, title, interest, property, claim and demand in and to the same; to hold unto the said —, his executors, administrators and assigns, absolutely (d).

IN WITNESS, etc.

SIGNED, SEALED, etc.

(c) Notice of the assignment should forthwith be given to the debtor (for form see under "Notices"), and as from the date of the notice the assignees' title is complete. No power of attorney is necessary.

(d) See note (c) above.

## ASSIGNMENT OF DEBT

## WITH COVENANTS.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the one part, and — of —, hereinafter called the assignee, of the other part.

WHEREAS — of — is indebted to the assignor in the sum of — dollars for and on account of, etc., and the assignor has agreed with the assignee for the absolute sale to him of the said debt for the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged), the assignor hereby assigns (*e*), transfers and sets over to the assignee the said debt, and all his right, title and interest therein; to hold the said debt of — dollars unto the assignee absolutely.

And the assignor covenants with the assignee that the said debt or sum of — dollars is still due and owing to him from the said debtor; that he has good right to assign the said debt unto the assignee in the manner aforesaid; and that he, the assignor, will not at any time hereafter receive the said debt (*f*) or sum of — dollars, or any part thereof, nor do any act whereby the assignee may be prevented or hindered from enforcing the payment of the said debt; and also that the assignor and all persons rightfully claiming any interest in the said debt or sum of — dollars shall and will from time to time, and at any time hereafter, execute such further assurances for effectually assigning the said debt or sum of — dollars to the assignee as he or his counsel in the law shall require.

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the

(*e*) By an assignment "the debt is transferred to the assignee, and becomes as though it had been his from the beginning; it is no longer to be the debt of the assignor at all, who cannot sue for it, the right to sue being taken from him; the assignee becomes the assignee of a legal debt and is not merely an assignee in equity, and the debt being his he can sue for it and sue in his own name." (*Read v. Brown* (1888), 22 Q B D. at p. 132; per Lord Esher, M.R.)

(*f*) See note (*e*) on p. 176.

benefit of and be binding upon the parties hereto, their executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### ASSIGNMENT OF DEBT

WITH WARRANTY OF INDEBTEDNESS.

(Short form.)

KNOW ALL MEN by these presents that I, —, of —, in consideration of — dollars to me paid by — of — (the receipt whereof I hereby acknowledge), do hereby assign (*g*) to the said — absolutely a certain debt owing to me from — of — for [goods supplied, etc.] and all and every sum or sums of money now due or to become due thereon. And I hereby warrant that the said debt is still due and owing to me from the said —, and that I have not previously assigned or encumbered the said debt or any part thereof (*h*).

IN WITNESS whereof I have hereunto set my hand and seal this — day of — 19—.

SIGNED, SEALED, etc.

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### ASSIGNMENTS OF DEBTS GENERALLY

WITHOUT COVENANTS.

(Short form.)

KNOW ALL MEN by these presents, that we A.B., and C.D., all of the — of —, doing business under the firm name of A.C. & Company, in consideration of the sum of [one dollar] to us paid by E.F. of —, do hereby assign to the said E.F., his executors, administrators and assigns, absolutely, all debts and sums of money now due to the said firm of A.C. & Company from any person or corporation whatsoever, together with all bonds, mortgages, leases, assignments, judgments, insurance policies, cheques, bills (*i*), notes, choses in action and other

(*g*) See note (*e*) on p. 177.

(*h*) See note (*c*) on p. 176.

(*i*) If the benefit of such cheques and bills is intended to pass, they should be expressly mentioned; see *Felix v. Hadley*, [1898] 2 Ch. 680.

securities for money now held by or in the name or for the benefit of the said firm, as also all contracts or agreements entered into by or on behalf of the said firm and all benefits to which the said firm now is or may be entitled thereunder.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### ASSIGNMENT OF BOOK DEBTS

FOR EXISTING DEBT AND PRESENT ADVANCE.

THIS INDENTURE made the — day of — 19—, between — of — and — of —, [merchants,] trading in co-partnership under the name, style and firm of — and Company, hereinafter called the assignors, of the first part, and — of —, hereinafter called the assignee, of the second part.

WHEREAS the assignors are now carrying on and intend to carry on business in partnership at number —, — street in the [town] of — as [merchants].

AND WHEREAS the assignee has heretofore at different times made cash advances as loans to the assignors, amounting in the aggregate to the sum of — dollars, and the assignors are at present indebted to the assignee in the [said] sum of — dollars.

AND WHEREAS the assignors have applied to the assignee for a further advance in cash, and the assignee has agreed to advance to them the further sum of — dollars in cash upon the execution of these presents as collateral security for the said past and present advances (hereinafter called the said indebtedness), in order to assist the assignors in their said business.

NOW THIS INDENTURE WITNESSETH that in consideration of the said indebtedness (the amount whereof is hereby acknowledged) the assignors do hereby assign, transfer and set over unto the assignee, his executors, administrators and assigns, firstly, all the debts, claims and demands now due or owing or accruing due and owing to the assignors trading as aforesaid out of their said business as —, the accounts whereof are now mentioned in the ledgers or other account books of the said business. Secondly, all the debts, claims or demands which may at any time hereafter become due and owing to the assignors trading as aforesaid arising out of their said business as



—, the accounts whereof may hereafter be mentioned in the ledger or other account books in connection with the said business.

And the assignors, for themselves their and each of their executors and administrators, covenant and agree with the assignee, his executors, administrators and assigns, that they will at any time upon demand or request of the assignee furnish a true and correct list and schedule of the said debts, claims and demands, and also that they will upon every reasonable request of the assignee make, do and execute all such further and other assurances by acts, deeds and instruments which may be requisite for more perfectly and absolutely assigning, transferring and assuring the said debts, claims and demands hereby assigned and transferred, or intended so to be, and every part thereof unto the assignee, his executors, administrators and assigns.

And the assignors do hereby assign, transfer and set over unto the assignee, his executors, administrators and assigns all deeds, books of account, vouchers, promissory notes, cheques, bills of exchange (*j*) and all other documents or evidences of the said debts, or any of them, or any part thereof, together with all books of account in which there are or hereafter may be any entries of the particulars of the said debts.

And the assignors hereby irrevocably nominate, constitute and appoint the assignee, his executors, administrators and assigns, their true and lawful attorney or attorneys to ask, demand, sue for and recover the said debts, claims and demands and every of them, and to give effectual receipts and discharges therefor, together with full power to compromise the said debts or any of them which may seem bad or doubtful, and to give time for payment thereof with or without security.

And it is hereby understood and agreed that these presents are given as collateral security only for the due payment of the said indebtedness, and that the execution hereof shall not in any way suspend or affect the present or future rights and remedies of the assignee in respect of the said indebtedness, or any part thereof, nor shall it affect any securities which he now holds or

(*j*) See note (*i*) on p. 178.

hereafter may hold in respect of the said indebtedness, or any part thereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### ASSIGNMENT OF BOOK DEBTS

FOR EXISTING DEBTS AND FUTURE ADVANCES.

WE, — and Company of —, [merchants], hereby assign, transfer and set over to — of —, his executors, administrators and assigns, all book debts, accounts and choses in action now due or accruing due to us in connection with our business as [general merchants]; and also all book debts, accounts and choses in action which may at any time hereafter become due and owing to us in connection with our business; and also all deeds, books, vouchers, promissory notes, cheques, bills of exchange (*k*) and other documents or evidences of the said debts, accounts and choses in action, or any of them or any part thereof or in any manner relating to or containing entries of the said book debts, accounts, choses in action or any of them, to be held by the said — as a collateral security to the present and all future indebtedness of us to the said —.

We hereby covenant and agree on demand at any time to prepare and deliver to the said —, his heirs, executors, administrators or assigns, a full list of all accounts due or accruing due to us, and to execute such further assurances or assignments as may be necessary to complete their title, and to prepare and deliver to them all deeds, books, vouchers, promissory notes, bills of exchange and other documents or evidences of the said debts, accounts and choses in action, or any of them or any part thereof, and to furnish all information necessary to enable them to collect the said debts, accounts and choses in action, and we hereby authorize them whenever necessary to sue for and collect the said debts, accounts and choses in action.

This assignment is executed as a continuing security collateral to our indebtedness to the said —, whether the said indebtedness has been already contracted or may be hereafter contracted, and the execution hereof shall not in any way

(*k*) See note (*i*) on p. 178.

suspend or affect the present or future rights and remedies of the said — in respect of the said indebtedness or any part thereof, nor shall it affect any securities which they now or hereafter may hold in respect of the said indebtedness or any part thereof.

[If it is intended to limit the security to a fixed amount, add: Provided, however, that this assignment shall be limited to the extent of — dollars, but shall be considered as a continuing security to that extent.]

The understanding on which this security is given is that the said — shall accept payment of our present overdue indebtedness as follows: — dollars in — days from this date and the balance in [weekly] payments of — dollars thereafter until paid.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### ASSIGNMENT OF BOOK DEBTS.

EXISTING DEBTS AND FUTURE ADVANCES.

(Short form.)

To — of —.

WE, —, of —, carrying on business under the name of — and Company, do hereby, for valuable consideration and the sum of one dollar (the receipt whereof we hereby acknowledge) assign, transfer and set over to you all our book debts, accounts and choses in action both present and future and also all our books and papers both present and future containing entries of or relating to the same, as collateral security for our present and future indebtedness to you. And in case it becomes necessary for you to collect the above at any time then the costs and expenses thereof shall be a first charge on the proceeds thereof.

IN WITNESS whereof we have hereunto set our hands and seals this — day of — 19—.

SIGNED, SEALED, etc.

## ASSIGNMENT OF JUDGMENT DEBT.

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting the Law and Transfer of Property (1), between — of the — of — in the county of —, —, hereinafter called the assignor, of the first part, and — of the — of — in the county of —, —, hereinafter called the assignee, of the second part.

WHEREAS by a judgment dated the — day of — 19—, in an action in the [*name of court*] in which the assignor was plaintiff and — of — was defendant, it was adjudged that the plaintiff recover against the defendant the sum of — dollars and costs to be taxed. And whereas the said costs have been taxed and amount to — dollars.

AND WHEREAS the said judgment debt of — dollars with interest and costs is still owing to the assignor.

AND WHEREAS the assignee has agreed to pay to the assignor the sum of — dollars upon having an assignment of the said judgment debt, interest and costs as hereinafter mentioned.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged), the assignor, as beneficial owner, hereby assigns unto the assignee all that the said sum of — dollars and all interest now due or hereafter to become due thereon, and also the said judgment (*m*) and all moneys recoverable thereunder and all other securities for the said sum, costs and interest.

To hold the same unto the assignee absolutely (*n*).

[And the assignor covenants with the assignee that the said judgment is in full force and effect and that the whole of the said sum of — dollars with interest thereon and costs remain owing thereunder.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

(1) R.S.O., c. 119.

(*m*) The assignee has the same rights of enforcing the judgment as the assignor had (*Goodman v. Robinson* (1886), 18 Q.B.D., 332).

(*n*) Notice of the assignment should be given at once to the judgment debtor. For form see under "Notices."

## ASSIGNMENT OF GOODWILL (o).

## OF BUSINESS OF A BAKER AND CONFECTIONER.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting the Law and Transfer of Property, between — [vendor] of —, hereinafter called the vendor, of the one part, and — [purchaser], of —, hereinafter called the purchaser, of the other part.

WHEREAS by a lease dated the — day of — 19—, made between [lessor] of the one part and the vendor of the other part, all that [describe parcels] was demised unto the vendor, his executors, administrators and assigns, from the — day of — 19—, for the term of — years at the yearly rent of — dollars, subject to the lessee's covenants and agreements therein contained.

AND WHEREAS the vendor has agreed with the purchaser for the sale to him of the said leasehold hereditaments and the goodwill of the business of a baker and confectioner carried on by the vendor upon the premises at the price of — dollars.

NOW THIS INDENTURE WITNESSETH as follows:

1. In pursuance of the said agreement and in consideration of — dollars now paid by the purchaser to the vendor (the receipt whereof the vendor hereby acknowledges), and of the purchaser's covenants hereinafter contained, the vendor hereby grants and assigns unto the purchaser all that certain parcel of land and premises comprised in and demised by the said lease, to hold the same unto the purchaser for all the residue now unexpired of the said term of — years, subject henceforth to the rent reserved by and the covenants and conditions contained in the said lease.

2. In further pursuance of the said agreement and for the consideration aforesaid the vendor hereby grants and assigns unto the purchaser all that the business of a baker and confectioner carried on by the vendor upon the premises hereby assigned and the goodwill thereof. Together with the benefit of all contracts and engagements entered into with the vendor in respect of the said business, and all book debts now owing to the vendor in respect of the said business and all the trade

(o) See also special clause on p. 196.

fixtures [fittings and utensils] now in or upon the premises; to hold the same unto the purchaser absolutely.

3. The vendor hereby covenants with the purchaser that the vendor will not engage in or carry on the business of a baker or confectioner within [two] miles from the said leasehold premises nor solicit or serve any customer now or within [two] years before the date hereof regularly served from the said business, or be concerned either directly or indirectly in such business as principal, agent, manager, servant, financier or otherwise during the term of [five] years from the date hereof. And in the event of any breach of this covenant will pay to the purchaser the sum of — dollars to be recoverable upon every breach of this covenant as liquidated damages and not as a penalty.

4. The purchaser hereby covenants with the vendor that the purchaser will, during the residue of the said term, pay the rent reserved by and perform and observe the lessee's covenants and conditions contained in the said lease and pay all debts, discharge all liabilities and perform all contracts and engagements owing and subsisting in relation to the said business, and will keep the vendor, his executors and administrators, indemnified against all actions, proceedings, claims, demands, costs, damages and expenses on account thereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

# ASSIGNMENT OF INSURANCE POLICY

BY ENDORSEMENT.

FOR value received I hereby transfer, assign and set over unto — of — [the purchaser, *or*, mortgagee of the property *or*, as collateral security, *as the case may be*] all my right, title and interest in the within policy of insurance and all advantage to be derived therefrom (*p*).

WITNESS my hand and seal at — this — day of — 19—.

WITNESS:

(*p*) The consent of the company must be obtained to assignments of policies, otherwise the company may refuse to recognize the validity of the assignment. For form of consent see next page. In the case of a fire policy, if the assured transfers the property covered by the policy, but does not obtain the company's consent to the transfer, and a loss subsequently occurs, the company may refuse to pay the loss.

## CONSENT OF COMPANY

## TO ASSIGNMENT OF INSURANCE POLICY.

The — Insurance Company hereby consents to the above assignment, subject, however, to all the provisos, conditions and stipulations contained in the said policy, or endorsed thereon, it being understood that if the assignment be made in favour of a mortgagee, or for collateral security, the insurance under the said policy shall continue in the name of the assured, whose loss, if any, shall be payable to the assignee as the interest of such assignee may appear.

Registered at — this — day of — 19—.

*[Signature of Insurance Company.]*

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## ASSIGNMENT OF LIFE INSURANCE POLICY

## AS SECURITY FOR MONEY DUE (q).

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the first part, and — of —, hereinafter called the assignee, of the second part.

WHEREAS by a policy of insurance issued by the — Assurance Company, dated the — day of — 19—, and numbered —, the sum of — dollars is assured to be paid on the death of the assignor, subject to the payment of the annual premium of — dollars.

NOW THIS INDENTURE WITNESSETH that the assignor, in consideration of — dollars, the receipt whereof is hereby acknowledged, doth hereby assign and transfer unto the assignee the said policy of assurance and all sums of money assured by or to become payable under or by virtue thereof.

To hold the said policy and sums of money unto the assignee with full power and authority for him to demand, sue for, recover and receive, and give effectual receipts, releases and discharges for the moneys hereby assigned. And it is hereby declared and agreed that the receipts, in writing, of the assignee shall be valid discharges to the said company and all other persons paying

(q) See "Agreement collateral to Assignment of Life Insurance Policy," on p. 190.

any money by virtue of these presents; and that the said company or such other persons shall not be bound or entitled to enquire into the state of the accounts between the parties hereto or to see to the application of the money in such receipts acknowledged to be received, or to be answerable or accountable for the mis-application or non-application thereof.

And it is further declared and agreed by and between the parties hereto, and the assignor doth hereby direct and appoint, that the assignee shall stand and be possessed of and interested in the said policy of insurance and sums of money upon trust for better securing to the assignee payment of the said sum of — dollars.

And the assignor covenants and agrees with the assignee that the said policy is now valid and in force and that the assignor will pay the premiums upon the said policy when they become due and do all other acts which may be necessary for keeping the said policy on foot, and that he will execute such further assignments of the said policy as may be reasonably required.

And the assignee covenants and agrees with the assignor that he will, so soon as the sum of — dollars and the interest thereon and all other moneys, costs, charges and expenses intended to be secured by this indenture are fully paid and satisfied, re-assign the said policy and the moneys hereby secured unto the assignor, or as he shall direct, free from all incumbrances created by the assignee in the meantime; provided that the assignee shall not be bound to see to the payment of the premiums upon the said policy, nor be responsible for any loss which may be occasioned by the non-payment thereof.

And it is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their executors, administrators and assigns, respectively (*r*).

IN WITNESS, etc.

SIGNED, SEALED, etc.

(*r*) Notice of the assignment must be given to the company forthwith, and usually the company requires the assignment or a copy to be filed at its head office; in default of which it may refuse to recognize the assignment. For form of notice, see under "Notices."



## DECLARATION OF EXECUTION

OF ASSIGNMENT OF LIFE INSURANCE POLICY (s).

PROVINCE OF —, )      IN THE MATTER of the policy intended  
 County of —, )      to be assigned by the within assign-  
 To Wit: )      ment.

I, —, of — in the county of —, —, do solemnly declare:

1. That I was personally present and saw the within assignment of policy duly executed by —.

2. That the said assignment was executed at —.

3. That I know the said party so executing the said assignment, and that he is of the full age of twenty-one years.

4. That I am a subscribing witness to the said assignment.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of "The Canada Evidence Act, 1893."

DECLARED, etc.

## ASSIGNMENT OF LIFE INSURANCE POLICY.

ABSOLUTE ASSIGNMENT.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the first part, and — of —, hereinafter called the assignee, of the second part.

WHEREAS by a policy of assurance issued by the — Assurance Company, dated the — day of — 19—, and numbered —, the sum of — dollars is assured to be paid on the death of the assignor, subject to the payment of the annual premium of — dollars.

[or, WHEREAS the assignor is entitled to the several policies of assurance on the lives of — and — respectively, the particulars whereof shewing the companies in which and the persons in whose names such policies were effected, together with the dates and numbers of such policies, the amounts assured thereby

(s) To accompany forms on pp. 186 and 188.

and the premiums payable thereon, are contained in the schedule hereto.]

AND WHEREAS the assignor has agreed with the assignee for the sale to him of the said policy [*or, policies*] for the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that the assignor in consideration of — [*the full actual consideration should be filled in, or if there be none that fact should be stated*] to him paid by the assignee, the receipt whereof is hereby acknowledged, doth hereby sell, assign (*t*) and transfer unto the assignee, his executors, administrators and assigns the said policy [*or, several policies*] of assurance [mentioned in the schedule hereto], and all sums of money assured by or to become payable under or by virtue thereof, to hold, unto the assignee, his executors, administrators and assigns absolutely.

And the assignor, for himself, his heirs, executors and administrators, covenants and agrees with the assignee, his executors, administrators and assigns, [that (*u*) the said policy is now valid and in force, and that he, the assignor, will not omit or knowingly suffer anything whereby the said policy may become void or voidable, or the assignee be prevented from receiving the moneys thereby assured or any bonus or addition thereto, and that if he shall do, omit or suffer anything whereby any additional premium shall become payable in order to keep on foot the said policy then he will indemnify the assignee therefrom, and at all times thereafter punctually pay such additional premium, and] that the assignor will execute to the assignee, his executors, administrators and assigns, all such further assignments of the said policy as may reasonably be required.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[*For Declaration of Execution, see p. 188.*]

(*t*) See note (*p*) on p. 185 and note (*r*) on p. 187.

(*u*) If the policy being assigned is not upon the life of the assignor, the covenants within this bracket will be omitted.

## ASSIGNMENT OF LIFE INSURANCE POLICY.

## BY ENDORSEMENT.

KNOW ALL MEN by these presents, that I, —, the party assured (*v*) in and by the within policy granted by the — Life Assurance Company, do hereby, pursuant to the provisions of the statutes in that behalf, declare that the within policy and all advantages to arise therefrom shall be and accrue for the benefit of — [*name of wife, child, children (if all are to be benefited) or other (w) beneficiaries,*] in the following proportions: [*State what share for wife, children or other beneficiaries.*]

WITNESS my hand and seal at —, this — day of — 19—.

## RE-ASSIGNMENT OF INSURANCE POLICY

## ON REPAYMENT OF AMOUNT DUE.

THE consideration for which the within mentioned policy was assigned having been satisfied, I hereby re-assign the said policy and the sum assured to the within named party of the first part and release all claims thereon (*x*).

Dated at — this — day of — 19—.

WITNESS:

## AGREEMENT COLLATERAL TO ASSIGNMENT

OF LIFE INSURANCE POLICY (*y*).

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the first part, and — of —, hereinafter called the assignee, of the second part.

WHEREAS the assignor has assigned to the assignee a certain policy of insurance upon his life for — thousand dollars, issued by the — Company as number —.

(*v*) See note (*p*) on p. 185 and note (*r*) on p. 187.

(*w*) Husband, wife, children, grandchildren or mother of the assured (R.S.O., c. 203, s. 159).

(*x*) If notice of the original assignment was given to the Company the person insured should notify the company of the re-assignment.

(*y*) See "Assignment of Life Insurance Policy," p. 188.

NOW IT IS HEREBY DECLARED AND AGREED that the said assignment of insurance is in fact made to secure the sum of — dollars advanced by the assignee to the assignor to be re-payable as follows: — with interest at — per cent payable [half yearly] on the — days of — and — in each year, the first of such payments to be made on the — day of — 19—, arrears of both principal and interest to bear interest at the same rate and payable in like manner, all payments to be made in gold if required.

And the assignor covenants with the assignee to pay the said money and interest on the days and times and in the manner aforesaid and also that he will do and observe all conditions, matters and things necessary for keeping the said policy in force and that he will pay all premiums of insurance and moneys which shall from time to time be necessary for keeping the said insurance policy in force and that he will from time to time when any such insurance premiums or moneys shall become due pay the same and produce the receipt therefor to the assignee at least [six] days before the last day for payment thereof, and in default thereof the assignee may if he think proper to do so pay the same and the amount so paid shall be repayable to him by the assignor forthwith and shall bear interest until paid. And that he has good right and title in and to and full power to assign the said insurance policy and moneys thereby assured, and that the said policy has not been assigned or encumbered, and that the said policy is a valid and subsisting security according to the tenor and effect thereof, and also that if the said insurance company should become insolvent or go out of business the assignor shall forthwith procure the said policy and the insurance thereby effected to be undertaken and assumed by some other responsible insurance company to the satisfaction of the assignee or effect an insurance to the like amount upon his life with some other such company to the satisfaction of the assignee, and also that the assignor and every person claiming by through or under him will from time to time at the request of the assignee make, do and execute all such acts, deeds, matters and things as may be reasonably required for further or better assigning and assuring the said policy and moneys thereby assured to the assignee or for enabling the assignee to recover payment of the said moneys.

And it is declared and agreed that in default of payment of any moneys or interest hereby secured or payable by virtue hereof the assignee may sell the said insurance policy either by public auction or private sale or may surrender the same for cash or for a paid up policy or partly one and partly the other, and in case any such new policy be taken the same shall stand as a security for the moneys and interest hereby secured in place of the policy so surrendered; and it is agreed that upon the receipt of any moneys upon the said insurance policy or any such future policy or upon the sale or surrender of any such policy or future policy the same shall be applied in or towards payment of the moneys and interest hereby secured and all premiums (if any) paid by the assignee with the interest thereon and all costs which the assignee shall sustain or be put to in and about the keeping in force or sale or surrender of the said policy, obtaining payment of the moneys assured or otherwise in respect of the premises, and also that upon payment of all such moneys, interest, costs and expenses the assignee shall re-assign the said policy to the assignor or assign to him such new policy if any or pay over to him such surplus moneys as shall remain in his hands, as the case may be.

It is hereby declared and agreed that these presents and everything herein contained shall respectively be binding upon and enure to the benefit of the executors, administrators, successors and assigns of the parties hereto respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### ASSIGNMENT OF LEGACY.

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting the Law and Transfer of Property (z) between — of —, hereinafter called the assignor, of the one part, and — of —, hereinafter called the assignee, of the other part.

WHEREAS — [testator], late of —, deceased, by his will dated the — day of — 19—, bequeathed to the assignor as legatee the sum of — dollars to be paid to him within —

(z) R.S.O., c. 119.

months next after the decease of the testator [*or as the case may be*], and appointed — the executor of his said will.

AND WHEREAS the said [*testator*] died on the — day of — 19—, without having revoked or altered his said will, which has been duly proved in the Surrogate Court of the county of — and province of —.

AND WHEREAS the said legacy to which the assignor is entitled as aforesaid has not yet been paid, and the assignee has agreed with the assignor for the purchase thereof for the sum of —.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged), the assignor hereby assigns (*a*) and as beneficial owner conveys unto the assignee, his executors, administrators and assigns, the said legacy or sum of — dollars so bequeathed to him, the assignor, by the said will, and all the moneys to become due and payable in respect of the said legacy, together with full power to demand, sue for, recover, receive and give effectual discharges for the said legacy and moneys in the name of the assignor, his executors or administrators, or otherwise to hold the said legacy and premises hereby assigned unto the assignee, his executors, administrators and assigns, for his and their absolute use and benefit.

And the assignor for himself, his executors and administrators, covenants with the assignee, his executors, administrators and assigns, that the said sum of — dollars is still due and owing to him from the estate of the said testator (*b*).

IN WITNESS, etc.

SIGNED, SEALED, etc.

(*a*) Notice of the assignment should at once be given to the executor. For form, see under "Notices."

(*b*) In provinces where there is a succession or legacy duty (as in Ontario), if the legacy is one which is liable to the duty add, "subject to the succession [*or, legacy*] duty payable thereon."

## ASSIGNMENT OF RENT

## AS COLLATERAL SECURITY TO A MORTGAGE.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the one part, and — of —, hereinafter called the assignee, of the other part.

WHEREAS by a certain indenture dated the — day of — 19—, the assignor did grant and mortgage to the assignee all that certain parcel of land, situate, etc., to secure the payment of — dollars with interest as therein mentioned.

AND WHEREAS the assignor did, by a certain indenture of lease dated the — day of — 19—, lease the said land to one — for a term of — years at the yearly rental of — dollars.

AND WHEREAS the assignor has agreed to assign the said lease and all benefit and advantage to be derived therefrom to the assignee as collateral security for the payment of the said mortgage moneys.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises the assignor doth hereby assign, transfer and set over unto the assignee the said lease and the rent payable thereunder (c) and all benefit and advantage to be derived therefrom, to hold and receive the same unto the assignee, his heirs, executors, administrators and assigns.

Provided that nothing herein contained shall be deemed to have the effect of making the assignee responsible for the collection of the said rent or any part thereof, or for the performance of any covenants, terms or conditions, either by the lessor or lessee, contained in the said lease, and that the assignee shall not, by virtue of these presents, be deemed a mortgagee in possession of the said lands.

And provided further that the assignee shall only be liable to account for such moneys as may actually come into his hands by virtue of these presents, less proper collection charges, and that such moneys when so received by him shall be applied on

(c) The assignee should immediately notify the lessee to pay rent to him. For form, see under "Notices."

account of the said mortgage, to which these presents are taken as a collateral security.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## ASSIGNMENTS OF PERSONAL PROPERTY.

### SPECIAL DESCRIPTIONS.

Special conveyances of chattels real and personal appear throughout the book under the headings "Conveyances," "Assignments," etc. These will be found by reference to the Index. The special descriptions following may either be inserted, when required, in various instruments, (for example, in a Bill of Sale, or other instruments of a general nature,) or may be used for the descriptive parts of special conveyances of the subject matter to which the description relates.

#### *Agreement.*

All that the said recited agreement, and all the estate, right, title, benefit, advantage, property, claim and demand whatsoever of the said [*assignor*] of, in, or to the same, and the property comprised therein.

#### *Annuity.*

All that annuity, or yearly sum of — dollars payable during the life of — by [equal half-yearly] payments on the — day of — and the — day of — in every year [*or as the case may be*], and the arrears and future payments thereof and all remedies and powers whatsoever for the recovery thereof [and also the said bond or obligation and the full benefit thereof and all sums of money recoverable thereunder].

#### *Farm stock.*

All the horses, cattle and other animals, carts, wagons, agricultural, farming and dairy implements, machinery, utensils and crops, growing or cut, on or about the farm situate, etc.

#### *Furniture.*

All the household furniture and effects specified in the schedule hereto, and lying or being in the messuage or tenement known as no. —, — street, in the [town] of —.



*Goodwill and assets of business (d).*

All that the interest and goodwill of the said [vendor] in the said business of — carried on by him at —, and also all the book and other debts due and owing to the said [vendor] in respect of the said business and all securities for the same [including any cheques or bills (e) given to the said [vendor] in payment or part payment or satisfaction of the said debts or any of them], and also the benefit of all contracts entered into and orders given to the said [vendor] in respect of the said business, [and also all goods, stock-in-trade, machinery and implements of manufacture, furniture, effects and other assets, if any, except cash in hand or at the bank belonging to the said [vendor] in respect of the said business or used for the purpose of carrying on the same].

*Growing crops.*

All the crops of grain, grass and vegetables, whether above or under ground, now growing in and upon [describe premises] and consisting of the following parcels, viz., — acres of wheat, — acres of timothy, — acres of turnips, etc., with full liberty for the said [assignee] his servants, workmen and agents either with or without horses, or wagons, at all reasonable times hereafter, so long as the said crops shall be growing, standing or lying on the said farm, to enter thereon to see the state of such crops and for the purpose of cutting, reaping and carrying away the same, and for all other necessary purposes.

*Jewelry.*

All jewels, jewelry, watches and trinkets, of or to which the said — is now possessed or entitled.

*Personal effects.*

All the goods, chattels, furniture and household effects, gold and silver plate, plated articles, china, glass, articles of domestic use or ornament, jewelry, trinkets, books, pictures and personal chattels and movable effects of the said —.

*Life interest in personal property.*

All that the life interest of the said — under the said will [or, settlement] in the several stocks, funds and securities

(d) See also form on p. 184.

(e) See note (i) on p. 178.

the particulars whereof are specified in the schedule hereto, and in the investments for the time being representing the property for the time being subject to the trusts of the said will [or, settlement] and in the dividends, interest and income thereof respectively.

*Reversionary interest in personal property.*

All that the remainder [or, reversionary interest] of the said — under the said will [or, settlement] expectant upon and to take effect in possession immediately upon and after the decease of the said — [or as the case may be] of and in the stocks, funds and securities mentioned in the schedule hereto or the investments for the time being representing the property for the time being subject to the trusts of the said will [or, settlement].

*Policy of life insurance (f).*

All that policy of assurance dated the — day of — 19—, and numbered —, granted by the — Assurance Company insuring the life of [insured] in the sum of — dollars at the annual premium of — dollars, and all the bonuses and additional sums of money to become payable or to be received under or by virtue of the said policy, and all benefits and advantages thereof.

*Partnership debts and securities.*

All and every the outstanding debts and sums of money due and owing to the said partnership of [firm name] from any person or persons whomsoever for or in respect of the said partnership and all securities for the same, [including any cheques or bills (g) given to the said partnership in payment or part payment or satisfaction of the said debts or any of them], and the benefit of all rights and remedies in respect thereof.

*Share in partnership.*

All that — part or other the share or interest of him the said — of and in the goodwill of the partnership of [firm name] and the gains and profits now due to the said — and henceforth to arise from the said partnership, and of and in the

(f) See also pp. 185, 186, 188, 190.

(g) See note (i) on page 178.

goods, stock-in-trade, furniture, accounts, books and all other property and effects of the said partnership.

*Shares in a company or bank.*

All these — shares of [common] stock of the par value of — dollars each [numbered — to — inclusive] in the capital of the — company [*or, bank*] [credited in the books of the company with the sum of — dollars paid up on each of such shares]; and the assignor hereby covenants and agrees for himself, his executors and administrators, with the assignee, his executors, administrators and assigns, to cause the said shares to be transferred upon the books of the company and to do such other acts and give such other assurances as may be necessary for the effectual transferring of the said shares and at the costs of the assignor.

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# BANKING.

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## ASSIGNMENT OF BOOK DEBTS

### TO A BANK.

AGREEMENT made the — day of — 19—, between — of —, hereinafter called the customer, of the one part, and the — Bank, hereinafter called the bank, of the other part.

WITNESSETH that the customer hereby assigns and transfers to the bank all the debts, accounts and moneys now due or owing or accruing due and which may hereafter become due or owing to the customer in respect of the purchase money of goods, wares and merchandise, money advanced, lent or otherwise by the several persons, firms and corporations to which the customer has sold or may sell goods, wares or merchandise, or has lent or otherwise advanced, or may lend or otherwise advance money, including among others those mentioned in the schedule hereto [*or as the case may be*]. And also all contracts, securities, bills, notes and other documents now held or which may hereafter be taken or held by the customer, or any one for the customer, in respect of the said debts, accounts and moneys, or any part thereof.

The said debts, accounts and moneys, contracts, securities, bills, notes and other documents hereby assigned and all moneys which may be received by the bank by virtue of these presents are to be held by the bank as security for the now existing and for all future indebtedness of the customer to the bank, whether due or accruing due, and whether such indebtedness consists in whole or in part of advances upon overdrawn accounts or upon bills, notes or other obligations discounted for the customer or otherwise, or taken by way of renewal or in substitution or otherwise in respect of the said indebtedness.

These presents are to be a continuing security to the bank so long as the customer is receiving advances from the bank, but

the customer may at any time upon payment of all indebtedness call for a cancellation hereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### ASSIGNMENT OF DEBT

AS COLLATERAL SECURITY TO A NOTE.

[Place and date.]

IN CONSIDERATION of an advance made to me, at the time of the execution hereof, by the — Bank, amounting to — dollars I hereby assign, transfer and set over unto the — Bank the sum of — dollars due or accruing due to me from — (a) for goods sold by me to the said —, as set out in the invoice and statement hereto attached, with power to the said bank to collect and receive from the said — the said sum of money or any part thereof, and to give all proper discharges and receipts therefor.

This assignment is given as collateral security to a promissory note for — dollars given by me to the said bank this day, and maturing on the — day of — 19—, and any renewal or renewals thereof or substitution or substitutions therefor.

AS WITNESS my hand and seal this — day of — 19—.

WITNESS:

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### ASSIGNMENT OF CONTRACTS, NOTES AND BILLS

TO SECURE PRESENT AND FUTURE INDEBTEDNESS.

THE notes, bills and contracts mentioned below, amounting to — dollars, and the sums due to the undersigned thereupon are hereby transferred to the — Bank, which is authorized to hold them, and the proceeds thereof as collected, as a special collateral security fund for the payment of all present or future indebtedness or liability of the undersigned to the said bank.

The undersigned waives all notices and protests and agrees that the said bank shall not be bound to use any greater dili-

(a) The debtor should be at once notified, and his acknowledgement obtained in writing.



## ASSIGNMENT OF INSURANCE

AS COLLATERAL TO A LOAN.

Policy No. ——. The — Insurance Company.

Date of Policy, — 19—. Amount \$—.

The undersigned, for value received, hereby assigns and sets over unto the — Bank all the undersigned's right, title and interest in or to any moneys which may become payable to the undersigned under and by virtue of the above described policy of insurance, and authorizes the said bank to receive such moneys and give a good discharge to the — Insurance Company.

Dated at — the — day of — 19—.

*[Signature of policy holder.]*

## CONSENT OF COMPANY.

The — Insurance Company hereby consents to the above assignment, which is recorded in the books of the company.

Dated at — the — day of — 19—.

*[Signature of insurance company.]*

## GUARANTEE (b).

FOR INDIVIDUAL, AND JOINT AND SEVERAL.

KNOW ALL hereby that I, —, of — do [*or, we, — of — and — of —, do jointly and severally*] hereby, to the extent of — dollars, and of any interest, costs and expenses which may accrue or be incurred on or in relation to any sums up to that amount of those hereby guaranteed, guarantee to The — Bank (hereinafter called the bank) the due payment of all sums which are now or shall at any time hereafter be owing to the bank from — of — (hereinafter called the principal debtor), whether the said sums shall be owing for the amount of or upon any cheques, bills or notes theretofore paid or discounted for the principal debtor, or acquired by the bank from the principal debtor, or any other person or persons, or

(b) In all guarantees to a bank the extent of the guarantee will be limited, the amount being stated in the guarantee, and they are continuing guarantees to the extent stated. Other forms of guarantee will be found under "Guarantees."

owing in any other way or on any other account whatsoever, and hereby agree with the bank that the bank may agree to any extension of time to, or take any security from, or compound with or release the principal debtor, or any other person or persons liable on any guarantee, cheque, bill, note or otherwise, or surrender, release or abandon for or without value therefor, or omit to perfect or enforce any securities which, if any, the bank may now or hereafter hold or take, and shall not thereby, or by any neglect as to any securities, be prejudiced in its claim hereunder, or incur any liability to me [or, us or any of us] and I [or, we] further agree that the bank may advance and discount any amount beyond such sum or sums for the said —, and that no payment, dividend or composition which shall be received from the principal debtor, or any other person or persons, shall be taken in reduction of the liability of me [or, us or any of us] hereunder, but the same shall be deemed payments in gross, and this shall be a continuing guarantee to the extent aforesaid, and shall apply to and secure any ultimate balance that shall remain owing to the bank, and this guarantee shall not be discontinued by the death of me [or, us or any of us] nor until written notice to the bank, and that if at any time any sum owing from the principal debtor to the bank shall not be paid when payable the bank may, at its option, treat the whole amount owing from the principal debtor as forthwith payable, and recover against me [or, us or any of us] the whole amount hereby guaranteed.

IN WITNESS whereof I [or, we] have hereto set my [or, our] hand[s] and seal[s] at —, this — day of — 19—.

SIGNED, SEALED, etc.

### GUARANTEE

#### FOR CO-PARTNERSHIP.

KNOW ALL hereby that I, —, of — do [or, we, — of — and — of —, do jointly and severally] hereby, to the extent of — dollars, and of any interest, costs and expenses which may accrue, or be incurred, on or in relation to any sums up to that amount of those hereby guaranteed, guarantee to The — Bank (hereinafter called the bank) the due payment



of all sums which are now or shall at any time hereafter be owing to the bank from the co-partnership carried on or to be carried on under the name of —, (hereinafter called the said firm), whether the same shall be owing for the amount of, or upon any cheques, bills or notes theretofore paid or discounted for the said firm, or acquired for the bank from the said firm, or any person or persons, or owing in any other way or on any other account whatsoever, and hereby agree with the bank that the bank may agree to any extension of time to, or take any security from, or compound with or release the said firm, or any member or members thereof, or any other person or persons liable on any guarantee, cheque, bill, note or otherwise, or surrender, release or abandon, for or without value therefor, or omit to perfect or enforce any securities, which, if any, the bank may now or hereafter hold or take, and shall not thereby, or by any neglect as to any securities, be prejudiced in its claim hereunder, or incur any liability to me [or, us or any of us] and I [or, we] further agree, that the bank may advance and discount any amount beyond such sum or sums for the said —, and that no payment, dividend or composition which shall be received from the said firm, or any person or persons, shall be taken in reduction of the liability of me [or, us or any of us] hereunder, but the same shall be deemed payments in gross, and this shall be a continuing guarantee to the extent aforesaid, and shall apply to and secure any ultimate balance that shall remain owing to the bank, and this guarantee shall not be discontinued by the death of me [or, us or any of us] nor until written notice to the bank, nor by any death, reduction, increase or change in the membership of the said firm, but shall apply to and be a security to the bank to the extent aforesaid for any sums due or owing to the bank from the said firm of whomsoever it may be from time to time composed, and that if at any time any sum owing from the said firm to the bank shall not be paid when payable the bank may, at its option, treat the whole amount owing from the said firm as forthwith payable, and recover against me [or, us or any of us] the whole amount hereby guaranteed.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## GUARANTEE.

FOR CO-PARTNERSHIP.

*(Another form.)*

The — day of — 19— .

To Messrs., — &amp; Co., Bankers at —.

Gentlemen: In consideration of your continuing the banking account now kept with you by — & Co., and of making advances from time to time thereon, I hereby guarantee to you the payment of the current balance for the time being due from the said firm to you, and to any future partner or partners you may have, on the balance of accounts for or on account or in consequence of any notes, bills, loans, payments, discounts or other banking transactions made, entered into or carried on by your firm to, or for the use or on the account of the firm of — & Co., or for interest, commission or any other usual charges, or in consequence of any dealings or transactions whatsoever between your firm and the firm of — & Co., or on its account. Provided that the whole amount of money to be ultimately recoverable by virtue of this agreement shall not exceed — dollars.

And for the consideration aforesaid, I further agree that this document shall operate as a continuing guarantee, and that no advance or advances you may from time to time make to the firm of — & Co. beyond the extent before mentioned, nor the possession of any guarantee from any other person or persons, nor of any other security or securities, nor any change whatsoever in the firm of — & Co., or in the firm or partnership arrangements of your house, whether arising from death or otherwise, shall in any way determine or prejudice any liability under this agreement.

WITNESS:

## HYPOTHECATION OF GOODS

BY OWNER IN POSSESSION, AS COLLATERAL TO A LOAN.

UNDER THE BANK ACT *(c)*.

In consideration of an advance of — dollars, made by

*(c)* Can. 1890, c. 31, s. 74, as amended by 1900, c. 26, s. 46.

the — Bank to —, for which the said bank holds the following bills or notes:

Date.	Bill or Note.	Maker or Acceptor.	Endorser or drawer.	Due date.	Amount.

the goods, wares and merchandise mentioned below are hereby assigned to the said bank as security for the payment on or before the — day of — 19—, of the said advance, together with interest thereon at the rate of — per cent per annum from the — day of — 19—, [or, of the said bills and notes, or renewals thereof, or substitutions therefor, and interest thereon, *or as the case may be*].

This security is given under the provisions of section seventy-four of "The Bank Act" (c), and is subject to the provisions of the said Act.

The said goods, wares and merchandise are now owned by —, are now in possession of —, and are free from any mortgage, lien or charge thereon, except [*mention mortgage, lien or charge, if any*] and are in [*mention place or places where goods are*] and are the following [*give particular description of goods assigned*].

Dated at — the — day of — 19—.

### HYPOTHECATION AGREEMENT

TO ACCOMPANY HYPOTHECATION OF GOODS BY OWNER  
IN POSSESSION (d).

MEMORANDUM OF AGREEMENT made this — day of — 19—, between — of —, of the one part, and the — Bank, of the other part.

WHEREAS the — Bank, hereinafter called the bank, has made an advance to the said —, for which the bank holds the following bills and notes:

(d) Previous form.

Date	Bill or Note	Maker or Acceptor	Endorser or Drawer	Due date	Amount

the due payment of which, or any renewals or part renewals thereof, are further collaterally secured by a hypothecation of the following goods, wares and merchandise, namely: —, the property in which is transferred to the bank by instrument hereto attached, signed by the said — and dated the — day of — 19—.

AND WHEREAS the said advance has been made on the assumption that the said goods have a market value of not less than — per —.

NOW IT IS HEREBY AGREED between the bank and the said — that if the market price of the said class of goods, wares or merchandise shall at any time during the currency of the said bills or notes, or any renewals or substitutions thereof, fall below the value placed thereon in the invoice hereto attached, (the fact of such fall in price to be sufficiently proved by the published market reports in the [Montreal, Toronto or Winnipeg] daily newspapers, or by any other reasonable evidence), and if on being requested by letter by the bank the said — fails to deposit sufficient cash or security to cover the shortage in margin as required by the bank, then the bank may at its option treat all or any of the said bills or notes, or renewals, or substitutions thereof, as past due, and may on giving one day's notice to the said —, which notice shall be sufficiently given if delivered at, or mailed postage prepaid to, the usual residence or place of business of the said — at —, sell the said goods, wares and merchandise, or so much thereof as will suffice to pay the amount owing by the said — to the bank in respect of the said advances with interest and all expenses.

And in the above event, or in case the above notes are not paid at maturity, the said — hereby consents to the sale of the said goods, wares and merchandise, and that such sale may

be by public auction or private contract, and without any further notice to the said —, and on such terms of payment as to the bank or the manager thereof at — shall seem proper; and the said — hereby constitutes and appoints the manager of the — Bank at — his true and lawful agent and attorney for and in the name of him the said — to execute and sign his consent in writing to the sale by the bank of the said goods, wares and merchandise, or any of them, as hereinbefore provided. Should there be any balance still due to the bank after applying the proceeds realized on the goods, the said — agrees to pay such shortage on demand.

In consideration of the said advance the said — hereby assigns to the bank, as collateral security, the following policies of insurance on the said property, for — dollars, and agrees from time to time to pay all premiums of insurance which may be payable on the said policies, and in the event of any premiums being paid by the bank the said securities shall be charged with the amount so paid by the bank, with interest at [six] per cent.

It is further agreed that in the event of the bank becoming entitled under the terms of this agreement, or the said invoice attached hereto, to sell the said goods, wares and merchandise, the bank shall have the right without legal process of any kind, and without notice, protest or other proceeding, to break open and enter upon any premises in which the said property may be situate, for the purpose of taking possession thereof.

It is further agreed that the provisions of this agreement shall extend to any instrument of hypothecation or other security which may hereafter be delivered to the bank in addition to, or in substitution, wholly or partly, for the instrument hereinbefore mentioned, and shall likewise extend to the property covered or affected by such substituted or additional securities. It is also agreed between the parties hereto that the security hereinbefore mentioned, and the property affected thereby, and such additional or substituted security to be hereafter given, as already provided for, and all moneys realized under the said securities, or any of them, shall also be held, so far as such securities and moneys are more than sufficient to meet the obligations hereinbefore specified, as a general collateral

security for all other indebtedness which may be owing at any time by the said — to the bank as fully as if the said other indebtedness were expressly mentioned in this agreement, or in said instrument of hypothecation, and the bank shall have the same powers of dealing with such securities and moneys to secure and effect payment of the said other indebtedness as are hereby given with reference to the advances hereinbefore specified.

And it is hereby expressly agreed that the terms and provisos of this agreement extend to any endorsees or transferees from the bank of the said bills, notes and securities, and also to the executors, administrators or assigns of the said —.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### HYPOTHECATION OF SECURITIES

AS COLLATERAL TO A LOAN.

[Place and date.]

To the Manager of the — Bank.

Sir; In consideration of the — Bank making an advance to me of — dollars currency, payable —, with interest at — per cent per annum, I, —, hereby assign to the said bank as security for the due payment of the said advance, with interest and charges, [*here set out with sufficient certainty a description of the security assigned to the bank*] of the present value of — dollars.

Should the above advance with interest and charges not be paid in full when due, the bank may retain as owner the above mentioned security at its market value, giving credit therefor upon the amount then due, or in its discretion may dispose of the said security, or any part thereof, in such manner as it may deem fit, without notice, protest or other proceeding, and may appropriate the proceeds thereof towards the repayment of the amount due.

These powers shall apply equally to any other security substituted for the foregoing with the consent of the bank. The said security or any security substituted therefor shall also be held as collateral security for all other indebtedness by me

to the bank, as fully as if expressly assigned as such security and the bank shall have the same powers of dealing with the said security for the purpose of paying such indebtedness as are hereby given with reference to the said advance.

In the event of any balance remaining of the proceeds of the security after payment of the advance, the bank shall be entitled to apply such balance in payment of any other indebtedness by me to the bank.

The whole notwithstanding any provisions of The Bank Act and without prejudice to the bank's ordinary legal remedies.

Yours truly, —.

### HYPOTHECATION OF WAREHOUSE RECEIPTS

AS COLLATERAL TO A LOAN.

UNDER THE BANK ACT (e).

[Place and date.]

To the Manager of the — Bank.

Sir: In consideration of the discount by the — Bank of the following, viz:

Date	Bill or Note	Maker or Acceptor	Endorser or Drawer	Due date	Amount

I hereby assign to the bank as collateral security for the due payment at maturity of the above amounts, or any renewals or part renewals thereof, with interest and charges including the insurance premiums, if any, paid thereon by the bank:

Warehouse receipt —, for —, in favor of —, and endorsed, with insurance of The — Insurance Company, for — dollars.

(e) Can. 1890, c. 31, s. 73.

Should the above amounts and the interest, charges and insurance premiums not be paid in full when due respectively, the bank may retain as owner the goods covered by the above mentioned security, or any part thereof, at their market value, giving credit therefor upon the amount then due, or in its discretion may dispose thereof, or any part thereof, in such manner as it may deem fit, without notice, protest or other proceeding, and may appropriate the proceeds thereof towards the repayment of the amount due.

These powers shall apply equally to any other security substituted for the foregoing with the consent of the bank. The said security, or any security substituted therefor, shall also be held as collateral security for all other indebtedness by me to the bank, as fully as if expressly assigned as such security, and the bank shall have the same powers of dealing with the goods covered by the said security, for the purpose of paying such indebtedness, as are hereby given with reference to the said discount.

The bank may keep the said property insured, and the premiums of insurance, if any, paid by the bank shall be repaid on demand.

In the event of any balance remaining of the proceeds of the said security after payment of the amount secured, the bank shall be entitled to apply such balance in payment of any other indebtedness by me to the bank.

The whole notwithstanding any provisions of The Bank Act and without prejudice to the bank's ordinary legal remedies.

Yours truly, —.

CERTIFICATE OF VALUE.

*[Place and date.]*

To the Manager of the — Bank.

Sir; I hereby certify that I have examined the above described goods, now at —, and that they are this day worth in this market the prices above appended to them respectively.

Your obedient servant, —.



## WAREHOUSE RECEIPT.

UNDER THE BANK ACT (f) AND THE CRIMINAL CODE (g).

THE undersigned acknowledges to have received from — and to have now stored in — the following goods, wares and merchandise, viz.: —, which goods, wares and merchandise are now separate, and will be kept separate, from other goods, wares and merchandise, and to be delivered pursuant to the order of —, to be endorsed hereon, and are to be kept in store till delivered pursuant to such order and on production of this receipt.

This is to be regarded as a receipt under the provisions of The Bank Act and of chapter 29 of the statutes of Canada of 1892.

Dated at —, the — day of — 19—.

[Signature of warehouseman.]

## POWER OF ATTORNEY.

TO DO BANKING BUSINESS, HYPOTHECATE SECURITIES, ETC.  
FOR INDIVIDUALS AND PARTNERSHIP.

KNOW ALL MEN by these presents that I, —, of —, [or, we — of — and — of —, trading in co-partnership under the name and style of — & Co.] do hereby constitute and appoint, and in my [or, our] place and stead put — of — to be my true and lawful attorney for me and in my name, [or, to be the true and lawful attorney of us and each of us for and in the name of us or any of us, or, our co-partnership] to make, draw, accept, endorse, transfer and assign all and any cheques, bills of exchange, drafts, promissory notes, deposit receipts, post office orders, receipts used in lieu of cheques for withdrawal of moneys from any savings bank or corporation, and other orders for the payment of money; to pay and receive all moneys and give acquittances therefor; to sign, issue, endorse and transfer warehouse receipts whether in favour of myself [or, ourselves] or otherwise, to sign and execute any hypothecation papers or instruments pledging or giving authority to sell

(f) Can. 1890, c. 31.

(g) Can. 1892, c. 29, ss. 376-8.

or dispose of or insure, or other authority over or in respect of any securities, goods, wares or merchandise; to apply for, assign or consent to any contract of fire insurance or any variation therein; to transact and manage all business with the — Bank and the officers and agents thereof; to draw and sign all orders and drafts for payment of money on the said bank, or any branch or agency thereof, or on its president, manager or other authorized officer or agent; to settle, balance and arrange all books and accounts with the said bank, and give and assign any acknowledgments thereof; and generally to do every act, matter and thing which the nature of my [*or, our*] business with the said bank shall or may require, as amply and effectually, to all intents and purposes as I [*or, we*] could do or have done in my [*or, our*] own proper person; (save and except that nothing herein contained shall extend or be construed to extend to authorize the said attorney to accept any transfer of stock of or in the said bank; nor to receive, or give receipts for dividends that are now, or that shall hereafter become due and payable for the same; nor to sell, assign and transfer all or any part of my [*or, our*] stock of or in the said bank; nor to vote at any meeting of the stockholders of the said bank;) hereby ratifying and confirming and promising to ratify and confirm all and whatsoever my [*or, our*] said attorney shall lawfully do or cause to be done in and about the premises aforesaid by virtue hereof.

This power of attorney shall be and remain in full force and effect until due notice in writing of its revocation shall have been given to the manager for the time being of the said bank at —, in the province of —, or to the general manager thereof.

And it is hereby declared that all or any of the powers hereby given may be exercised in the name and on behalf of the executors or administrators of me [*or, any of us*] and shall not be revoked by the death of me [*or, any of us*], [*in case of a firm add nor by any change in the name or membership of the said co-partnership.*]

IN WITNESS whereof I [*or, we*] have hereunto set my [*or, our*] hand[s] and seal[s] at — this — day of — 19—.

SIGNED, SEALED, etc.

## RESOLUTION OF COMPANY

AUTHORIZING OFFICER TO DO BANKING BUSINESS, HYPOTHECATE SECURITIES, ETC.

RESOLUTION passed by the board of directors of the ——— Company on the ——— day of ——— 19—.

On motion it was resolved that ——— [*name of officer*], the vice-president [*or as the case may be*] or in his absence [from the province] ———, the [manager, *or as the case may be*] and ———, the [secretary-treasurer, *or as the case may be*], of the company be and they are respectively hereby authorized to carry on the banking business of the company with the ——— Bank and its branches, and in connection therewith, on behalf of and in the name of the company, to draw or endorse cheques, to sign, draw, make, endorse or assign bills of exchange, promissory notes, bills of lading, warehouse receipts, securities under section 74 of the Bank Act, and other documents of title generally, for the purpose of assigning, transferring or hypothecating the same to the bank, or otherwise; and to adjust accounts with the bank, settle balances and receive vouchers and any documents the bank may have from time to time belonging to the company.

CERTIFIED a true copy of the resolution passed as above set forth and recorded in the minute book of the proceedings of the board of directors of the said company (*h*).

Dated the ——— day of ——— 19—.

———, President.

———, Secretary.

## BY-LAW OF MUNICIPAL CORPORATION

TO AUTHORIZE BORROWING MONEY FROM A BANK.

[DUPLICATE (i) OF ] BY-LAW NO. ———

To authorize the borrowing of certain moneys from the ——— Bank to meet the current expenditure of the corporation of the [town] of ——— for the year 19—.

(*h*) This certified copy is required by the bank to shew the extent of the authority of the company's officer in dealing with the bank.

(*i*) A mere copy of the by-law is not sufficient protection to the bank, and, as the original by-law is retained in the possession of the corporation, a duplicate should be made for the bank.

WHEREAS it is necessary to borrow the sum of — dollars from the — Bank to meet the now current expenditure of the corporation until such time as the taxes to be levied therefor can be collected:

BE IT THEREFORE ENACTED by the municipal council of the corporation of the [town] of —, as follows:

1. That the [Mayor, Warden, *or*, Reeve, *as the case may be*], with the treasurer of the said corporation, be and they are hereby authorized under the seal of the corporation to borrow from the — Bank the sum of — dollars, as the same may be required from time to time to meet the now current expenditure of the said corporation.

2. That the said [Mayor, Warden, *or*, Reeve, *as the case may be*], with the treasurer aforesaid, be, and they are hereby authorized to pay or allow to the said bank interest on the said sum of — dollars at the rate of — per cent per annum, which may be paid or allowed in advance by way of discount or otherwise howsoever as they may deem best.

3. That the said sum of — dollars so to be borrowed shall be made payable on or before the — day of — next, and the promissory note or notes of the said corporation, if any, given therefor, if made payable before the said — day of —, may be renewed by the said [Mayor, Warden, *or*, Reeve, *as the case may be*] and treasurer from time to time, but no renewal thereof shall fall due later than the said — day of — next.

4. That the promissory note or notes of the said corporation, sealed with the corporate seal and signed by the [Mayor, Warden, *or*, Reeve, *as the case may be*] and treasurer of the said corporation be given from time to time as required, in security for the amounts borrowed from time to time under the provisions of this by-law.

5. That the giving of such renewal note or notes, as aforesaid, shall not be deemed satisfaction to the said bank of the said advance or interest, but as evidence only of the indebtedness.

PASSED in Open Council, this — day of — 19—.

[CORPORATE SEAL.] —, Mayor [*or*, Warden, *or*, Reeve].  
—, Clerk.

# BILLS OF SALE.

## BILL OF SALE OF GOODS AND CHATTELS. (R.S.O., c. 148, s. 6.)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the bargainor, of the first part, and — of the — of — in the county of —, —, hereinafter called the bargainee, of the second part.

WHEREAS the bargainor is possessed of the goods and chattels hereinafter described, and has agreed with the bargainee for the absolute sale thereof to him for the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of — dollars paid by the bargainee to the bargainor at or before the sealing and delivery of these presents (the receipt whereof is hereby acknowledged) the bargainor doth bargain, sell and assign unto the bargainee all the said goods and chattels, that is to say: *[give full description of the goods, so that they may be easily known and distinguished;]* all of which said goods and chattels are now in the possession of the bargainor, and are situate in or upon —, *[describe accurately where the goods are;]* and all the right, title, interest, property claim and demand whatsoever of the bargainor of, in and to the same.

To hold the said hereinbefore assigned goods and chattels, and all the right, title and interest of the bargainor thereto and therein, unto and to the use of the bargainee.

And the bargainor doth hereby for himself, his executors and administrators, covenant with the bargainee, his executors, administrators and assigns, that the bargainor is now rightfully and absolutely possessed of and entitled to the said hereby assigned goods and chattels and every of them and every part

thereof. And that the bargainor now has in himself good right to assign the same unto the bargainee, his executors, administrators and assigns, in manner aforesaid, and according to the true intent and meaning of these presents; and that the bargainee, his executors, administrators and assigns, shall and may from time to time and at all times hereafter peaceably and quietly have, hold, possess and enjoy the said hereby assigned goods and chattels and every of them and every part thereof, to and for his and their own use and benefit without any manner of hindrance, interruption, molestation, claim or demand whatsoever of, from or by the bargainor or any other person or persons whomsoever; and that free and clear and freely and absolutely released and discharged or otherwise (at the costs of the bargainor,) effectually indemnified from and against all former and other bargains, sales, gifts, grants, titles, charges and incumbrances whatsoever.

And, moreover, that the bargainor and all persons rightfully claiming or to claim any estate, right, title or interest of, in or to the said hereby assigned goods and chattels, and every of them, and every part thereof, shall and will, from time to time, and at all times hereafter upon every reasonable request of the bargainee, his executors, administrators or assigns, but at the cost and charges of the bargainee, his executors, administrators or assigns, make, do and execute, or cause or procure to be made, done and executed, all such further acts, deeds and assurances for the more effectually assigning and assuring the said goods and chattels unto the bargainee, his executors, administrators or assigns, in manner aforesaid, and according to the true intent and meaning of these presents as by the bargainee, his executors, administrators or assigns or his or their counsel in the law shall be reasonably advised or required.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED (a) }  
in the presence of }

(a) In Ontario, a bill of sale must be registered "within five days from the executing thereof" (R.S.O., c. 148, s. 6). There is no provision, in Ontario, for registering a "copy" of a bill of sale.

## AFFIDAVIT OF EXECUTION

## OF BILL OF SALE.

(R.S.O., c. 148, s. 6.)

ONTARIO;                    }  
 County of —,            }  
 To Wit:                } I, —, of the — of — in the county  
                               } of —, —, make oath and say:

1. I was personally present and did see the within [*or*, annexed] bill of sale duly signed, sealed and executed by — [one of] the parties thereto.

2. The name "—" [*signature of witness*] set and subscribed as a witness to the execution thereof is of the proper handwriting of me this deponent.

3. The said bill of sale was executed at the — of — in the county of — on the — day of — 19—.

Sworn, etc.

## AFFIDAVIT OF BONA FIDES

## BY SOLE BARGAINEE.

(R.S.O., c. 148, s. 6.)

ONTARIO;                    }  
 County of —,            }  
 To Wit:                } I, —, of the — of —, in the county  
                               } of —, —, the bargainee (*b*) in the fore-  
                               } going [*or*, annexed] conveyance or bill of sale  
                               } named, make oath and say:

That the sale therein made is bona fide and for good consideration, namely the sum of — dollars, as set forth in the said conveyance, and is not for the purpose of holding or enabling me this deponent to hold the goods mentioned therein against the creditors of —, the bargainor therein named.

Sworn, etc.

(*b*) When the bill of sale is made to an incorporated company, see form on page 220.

## AFFIDAVIT OF BONA FIDES

BY ONE OF SEVERAL BARGAINEES.

(Ont. 1903, c. 7, s. 30.)

ONTARIO;	}	I, —, of the — of — in the county
County of —,		of —, —, one of the bargainees in the
To Wit:		foregoing [ <i>or</i> , annexed] conveyance or bill
		of sale named, make oath and say:

That the sale therein made is bona fide, and for good consideration, namely the sum of — dollars, as set forth in the said conveyance, and is not for the purpose of holding or enabling the bargainees therein named or either of us [*if more than two*, or any one or more of us] to hold the goods mentioned therein against the creditors of —, the bargainor therein named.

SWORN, etc.

## AFFIDAVIT OF BONA FIDES

BY AGENT OF BARGAINEE.

(R.S.O., c. 148, s. 6; Ont. 1903, c. 7, s. 30.)

ONTARIO;	}	I, —, of the — of —, in the county
County of —,		of —, —, make oath and say:
To Wit:		

1. I am the duly authorized agent of —, the bargainee in the foregoing [*or*, annexed] bill of sale named for the purposes of the said bill of sale, and I am aware of all the circumstances connected with the sale, and I have a personal knowledge of the facts deposed to.

2. I am duly authorized in writing to take the said conveyance or bill of sale, and the paper writing thereunto annexed marked "B" is a true copy of such authority.

3. The sale therein made is bona fide and for good consideration, namely the sum of — dollars as set forth in the said conveyance, and is not for the purpose of holding or enabling the said bargainee to hold the goods mentioned therein against the creditors of —, the bargainor therein named.

SWORN, etc.



## AFFIDAVIT OF BONA FIDES

BY OFFICER OF A COMPANY (e).

(R.S.O., c. 148. s. 6; Ont. 1903. c. 7, s. 30.)

ONTARIO;

County of —, I, —, of the — of —, in the county  
To Wit: — of —, —, make oath and say:

1. I am the [manager, *or as the case may be,*] of the — company, the bargainee in the foregoing [*or, annexed*] conveyance or bill of sale named, and (d) I am aware of all the circumstances connected with the sale and I have personal knowledge of the facts deposed to.

2. I am the agent of the said bargainee duly authorized in writing to take the said conveyance or bill of sale, and the paper writing marked "B," attached to the said conveyance, is a true copy of the said authority.

3. The sale therein made is bona fide and for good consideration, namely the sum of — dollars as set forth in the said conveyance, and is not for the purpose of holding or enabling the said bargainee to hold the goods mentioned therein against the creditors of —, the bargainer therein named.

SWORN, etc.

## AUTHORITY TO AGENT

TO TAKE BILLS OF SALE (e).

(R.S.O., c. 148. s. 6.)

KNOW ALL MEN by these presents that I, C.D., of the — of —, in the county of —, —, do hereby constitute, authorize and appoint E.F., of the — of — in the county of —, —, my true and lawful agent and attorney for me and on my behalf to take and receive [*if it is intended to give authority to take a certain bill of sale only, add, from one A.B. of the — of — in*

(c) The words from here to the end of the paragraph are in conformity with s. 30 of c. 7 of the Ontario statutes of 1903. The old wording was "aware of all the circumstances connected therewith."

(d) This affidavit may be made by the president, vice-president, manager, assistant manager, secretary, or treasurer, or other officer of the company duly authorized by resolution of the directors in that behalf (Ont. 1903, c. 7, s. 30).

(e) A copy of this authority or the authority itself must be attached to and filed with the conveyance (R. S. O., c. 148, s. 6).

the county of —, —, a bill of sale of certain chattels, the property of the said A.B., for and in consideration of the sum of — dollars to be paid by me for the purchase thereof, *but if it is intended to give authority to take bills of sale generally, say*, all and any bills of sale necessary or expedient to be taken for me and on my behalf from any person or persons whomsoever as I myself could do].

And for all and every of the purposes aforesaid I do hereby give and grant unto my said agent and attorney full power and authority to do, perform and execute all acts, deeds and matters necessary to be done and performed, and to take all proceedings necessary to be taken under and by virtue of any statute in that behalf or otherwise howsoever in and about the premises; I hereby ratifying, confirming and allowing and agreeing to ratify, confirm and allow all and whatsoever my said agent and attorney shall lawfully do or cause to be done by virtue hereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### BY-LAW OF COMPANY

GIVING AUTHORITY TO AGENT TO TAKE AND RENEW BILLS OF SALE  
AND CHATTEL MORTGAGES.

By-LAW number —, passed — 19—.

WHEREAS it is sometimes expedient for the — Company to accept bills of sale, chattel mortgages or conveyances intended to operate as mortgages of personal property, as security for debts or obligations owing to the said company;

BE IT THEREFORE ENACTED that the [manager] of the said company and the [assistant manager] of the said company be, and they, or either of them, are or is hereby authorized to take or accept for or on behalf of the said company from any person, firm or corporation, any mortgage, bill of sale or assignment to, or in favour of, the said company, of any personal property or of any mortgages thereon, either as security for, or in satisfaction of all or any part of any debts, moneys, claims or demands which is or are now, or shall hereafter be payable, due or owing from or against any person, firm or corporation in

favour of the said company, and to file or register the same or cause the same to be filed or registered, and to sign and make all proper affidavits, declarations or statements, and to do all things necessary, or which they or either of them shall deem necessary or expedient, to effect such filing or registration, and from time to time to renew such filing or registration, and to do or cause to be done anything necessary, or which they or either of them shall deem necessary or expedient to keep on foot or in force any mortgage or assignment of any personal property heretofore or hereafter made or executed in favour of or assigned to the said company, and for such purposes to sign and make all affidavits, declarations and statements which are or shall be required by law, or by them or either of them shall be deemed necessary or expedient as to the interests of the said company in any property, or as to the amount due or the payments made on such mortgage or security, or the good faith and absence from fraud in relation to the same, or any further or other particulars or matters relating thereto.

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#### AUTHORITY TO AGENT BY A COMPANY

TO TAKE AND RENEW, ETC., BILLS OF SALE AND CHATTEL MORTGAGES.

(R.S.O., c. 148. ss. 2, 6, 31.)

KNOW ALL MEN by these presents that we, the — Company, do hereby constitute, appoint and authorize — of the — of —, in the county of —, [manager] of the said company, our true and lawful attorney and agent for us and on our behalf to take and renew all bills of sale and chattel mortgages necessary or expedient to be taken and renewed from time to time, and to make such affidavits as may be required for the registration thereof, and for the purposes aforesaid we do hereby give our said attorney and agent full power and authority to do, perform and execute all acts, deeds, matters and things necessary to be done in the premises [and also to commence, institute and prosecute all actions, suits and other proceedings which may be

necessary or expedient in and about the premises] as fully and effectually as we the said company, could do; we hereby ratifying and agreeing to ratify and confirm all and whatsoever our said attorney shall lawfully do or cause to be done by virtue hereof.

As WITNESS our corporate seal this — day of — 19—.

BILL OF SALE OF SHIP.

[See under "*Shipping*."] 

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## BONDS.

### BOND BY ONE PERSON.

(General form (a).)

KNOW ALL MEN by these presents that I, — [obligor] of — am held and firmly bound unto — [obligee] of — in the penal sum of — dollars, to be paid to the said [obligee], or to his executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

THE CONDITION of this obligation is such that if [here state purpose for which bond is given] then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED AND DELIVERED }  
in the presence of }

### BOND BY SEVERAL PERSONS.

(General form.)

KNOW ALL MEN by these presents that we — of — and — of — [obligors] are held and firmly bound unto — [obligee] of — in the penal sum of — dollars to be paid to the said [obligee], or to his executors, administrators or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, our and each of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

(a) In England the form of bond generally used is as follows:

"Know all men by these presents that I [obligor] of —, hereby bind myself to [obligee] of —, for the payment to him of the sum of £—.

"Sealed with my seal this — day of —.

"The above written obligation is conditioned to be void in case the said [obligor], etc."

THE CONDITION of this obligation is such that if [*here state purpose for which bond is given*], then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

### BOND OF INDEMNITY.

(*General form.*)

KNOW ALL MEN by these presents that I, — [obligor] of — am held and firmly bound unto — [obligee] of — in the penal sum of — dollars, to be paid to the said [obligee], or to his executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, and every of them, forever firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

THE CONDITION of this obligation is such that if the above bounden [obligor], his heirs, executors and administrators, do and shall from time to time and at all times hereafter well and truly save, defend and keep harmless and fully indemnify the said [obligee], his heirs, executors and administrators, and his and their lands and tenements, goods, chattels and effects, of, from and against all loss, costs, charges, damages and expenses which the said [obligee], his heirs, executors or administrators, or any of them, may at any time or times hereafter bear, sustain, suffer, be at or be put unto for or by reason or on account of [*here state the particular matter or thing against which the obligee is to be indemnified*], or anything in any matter relating thereto, then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

### BOND OF INDEMNITY

UPON PAYING A LOST NOTE.

KNOW ALL MEN by these presents that I — of —, hereinafter called the obligor, am held and firmly bound unto — of —, hereinafter called the obligee, in the penal sum of — dollars to be paid to the obligee or to his executors, administra-

tors or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS the obligee by a promissory note made by him, and dated the — day of — 19—, did promise to pay to — or order — [months] after date the sum of — dollars [and such note was afterwards endorsed by the said — and others and became the property of the obligor, as the obligor avers].

AND WHEREAS the obligor alleges that the said note has been lost or destroyed, and the obligee has this day paid the obligor the said sum of — dollars in full satisfaction and discharge of the said note (the receipt whereof is hereby acknowledged).

NOW THE CONDITION of this obligation is such that if the obligor, his heirs, executors or administrators, or any of them, do and shall from time to time and at all times hereafter save, defend, keep harmless and indemnify the obligee, his executors and administrators, and the goods and chattels, lands and tenements of the obligee of, from and against the said note, and of and from all costs, charges, damages and expenses which shall or may happen or arise therefrom, and also deliver or cause to be delivered up the said note, when and so soon as it shall be found, to be cancelled, then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

### BOND OF INDEMNITY TO TENANT

WHO PAYS RENT WHEN TITLE IS IN DISPUTE.

KNOW ALL MEN by these presents that I, A.B. [*landlord*] of — am held and firmly bound unto C.D. [*tenant*] of — in the penal sum of — dollars to be paid to the said C.D., his heirs, executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, and every of them, for ever, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS an action is now pending in the — court of — between the above bounden A.B. and other persons concerning the title to the property situate at —, now held by the above named C.D. under a lease dated the — day of — 19—, made to him by the above bounden A.B. [*or as the case may be*].

AND WHEREAS the said C.D. has nevertheless agreed to pay the rent of the said property to the said A.B., as and when the said rent falls due, upon the said A.B. agreeing to indemnify him in respect thereof.

NOW THE CONDITION of this obligation is such that if the above bounden A.B., his heirs, executors, administrators or assigns, shall pay or cause to be paid to the said C.D., his heirs, executors, administrators or assigns, all such rent, sums of money, costs and damages whatsoever as the said C.D., his heirs, executors, administrators or assigns, shall lawfully be compelled to pay, and all costs and damages which he or they shall sustain or incur by reason of his or their paying the said rent, or any part thereof, to the said A.B., his heirs, executors, administrators or assigns, in manner aforesaid, then this obligation shall be void, but otherwise shall remain in full force and virtue.

SIGNED, SEALED, etc.

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### BOND FOR PAYMENT OF MONEY

BY TWO PERSONS.

KNOW ALL MEN by these presents that we, — of — and — of — [*obligors*], are held and firmly bound unto — [*obligee*] of —, in the penal sum of — dollars to be paid to the said [*obligee*], or to his executors, administrators or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, our and each of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

THE CONDITION of this obligation is such that if the above bounden — and — [*obligors*], or either of them, or his or their heirs, executors or administrators, shall well and truly pay or cause to be paid to the above named [*obligee*], his executors, administrators or assigns, the sum of — dollars, with interest



thereon at the rate of — per cent per annum, as follows —, then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

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#### BOND FOR PAYMENT OF PURCHASE MONEY.

KNOW ALL MEN by these presents that I, A.B. [*obligor*] of — am held and firmly bound unto C.D. [*obligee*] of — in the penal sum of — dollars to be paid to the said C.D., his heirs, executors administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, and every of them, forever firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS the above bounden A.B. has contracted with the said C.D. for the purchase of all that certain parcel of land, situate, etc.

AND WHEREAS the said A.B. has agreed to pay therefor the sum of — dollars, with interest thereon at the rate of — per cent per annum, at the times and in the manner following, namely:—.

AND WHEREAS upon the treaty for the said purchase it was agreed that the said A.B. should enter into the above bond or obligation for the payment of the said purchase money, or unpaid part thereof, and interest, in the manner aforesaid and be let into possession of the said lands and premises and receipt of the rents and profits thereof from the day of the date hereof.

NOW THE CONDITION of this obligation is such that if the said A.B., his heirs, executors, administrators or assigns, shall pay or cause to be paid to the said C.D., his heirs, executors, administrators or assigns, the whole of the said purchase money, with interest thereon as aforesaid, at the times and in the manner aforesaid, without any deduction, defalcation or abatement whatsoever, then this obligation shall be void, but otherwise shall remain in full force and virtue.

SIGNED, SEALED, etc.

## BOND FOR PAYMENT OF RENT

BY LESSEE AND SURETY.

KNOW ALL MEN by these presents that we, C.D., of — and E.F., of — [*obligors*] are held and firmly bound unto A.B., of — in the penal sum of — dollars, to be paid to the said A.B., his heirs, executors, administrators or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves, our and each of our heirs, executors and administrators, forever firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

WHEREAS the above bounden A.B., by lease bearing even date with and executed before the above written obligation, for the consideration in the said lease mentioned hath demised to the above bounden C.D. [*describe property leased*] to hold unto the said C.D., his executors, administrators and assigns, for the term of — years, from thence next ensuing, at the yearly rent of — dollars payable [quarterly], as is more particularly set out in the said lease.

NOW THE CONDITION of this obligation is such that if the said C.D. and E.F., or either of them, their or either of their heirs, executors or administrators, shall and do, during the continuance of the said lease, pay or cause to be paid the said yearly rent or sum of — dollars unto the said A.B., his heirs, executors, administrators or assigns, by [four equal quarterly] payments of — dollars each on the several days following, that is to say, the — day of —, the — day of — the — day of —, and the — day of — in each and every year during the term of the said lease, or within — days next after each of the said times of payment, according to the true intent and meaning of the said lease, the first quarterly payment to be made on the — day of — next, then this obligation shall be void, but if default shall happen to be made of or in any of the said payments, then this obligation shall remain in full force.

SIGNED, SEALED, etc.

## BOND TO CONVEY LAND.

KNOW ALL MEN by these presents that I, — [*obligor*], of the — of — in the county of —, —, am held and

firmly bound to — [obligee] of the — of — in the county of —, —, in the penal sum of — dollars to be paid to the said [obligee], or to his executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS the above bounden [obligor] has agreed to sell and convey to the said [obligee], in fee simple, by a good and sufficient deed containing the usual covenants, all that certain parcel of land, situate, etc., upon the following terms and conditions, viz.:—, and in consideration of the sum of — dollars payable as follows, that is to say:—.

AND WHEREAS the said [obligee] has agreed to purchase from the said [obligor] the said lands upon the conditions aforesaid.

NOW THE CONDITION of this obligation is such that if the above bounden [obligor] shall, at the request of the said — [obligee], his heirs or assigns, on or before the — day of — 19—, absolutely convey to the said [obligee], his heirs or assigns, or to such person or persons as the said [obligee] shall direct or appoint, the said land hereinbefore mentioned, conformably to the said agreement, provided the said [obligee] shall have duly paid the sum of — dollars in the manner hereinbefore mentioned, then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

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#### BOND COLLATERAL TO MORTGAGE.

KNOW ALL MEN by these presents that I, —, of —, hereinafter called the obligor, am held and firmly bound unto — of —, hereinafter called the obligee, in the sum of — dollars to be paid to the obligee, his executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS — of — claims to be the owner of all that certain parcel of land, situate, etc.; and by indenture [bearing

even date herewith] has mortgaged the said lands to the obligee to secure the payment to him of — dollars and interest at — per cent per annum, in the manner therein set forth.

NOW THE CONDITION of this obligation is such that if the said — [mortgagor] has a good title in fee simple to the said lands, and if the said mortgage is a valid security, and if the said — [mortgagor], his heirs, executors, administrators or assigns, do pay to the obligee the moneys and interest secured by the said mortgage, and observe and perform all the covenants and provisos in the said mortgage expressed or implied, then this obligation shall be void, but otherwise shall remain in full force and virtue.

Provided that the obligee, his heirs, executors, administrators or assigns, shall not be bound to take any proceedings to enforce the said mortgage before resorting to his remedy against the obligor; and provided that the obligee, his heirs, executors, administrators and assigns, shall be at liberty from time to time and at all times during the continuance of the said mortgage or any extension thereof, in his or their discretion, to accept other securities collateral to the said mortgage, or to allow the said mortgage moneys to be in arrear, or to extend the time for payment thereof, or of any part thereof, or to release part of the said lands or otherwise deal with the said mortgage security in such manner as the obligee, his heirs, executors, administrators or assigns, may see fit, and without the consent of the obligor, his heirs, executors or administrators, and that, notwithstanding the same, this security shall continue in full force as long as any moneys remain due or unpaid on the said mortgage.

SIGNED, SEALED, etc.

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### BOND BY VENDOR

#### TO INDEMNIFY A PURCHASER AGAINST A DEFECT IN TITLE.

KNOW ALL MEN by these presents that I, — [vendor], of — am held and firmly bound unto — [purchaser] of — in the penal sum of — dollars to be paid to the said [purchaser], or to his executors, administrators or assigns, for which payment

well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS [*recite shortly agreement for sale by vendor to purchaser of certain lands*].

AND WHEREAS on the investigation of the title of the said [*vendor*] it appeared that his title depended upon the fact that X.Y., late of —, deceased, who died on or about the — day of — 19—, died without leaving issue living at his death, and that in case the said X.Y. left any such issue then the said [*vendor*] would be unable to show or make a good title to the said lands [*or as the case may be*].

AND WHEREAS the said [*vendor*] is unable to produce any sufficient evidence that the said X.Y. left no issue living at his death.

AND WHEREAS nevertheless the said [*purchaser*] has agreed to complete the said purchase upon the said [*vendor*] executing the above-written obligation with the conditions hereinafter expressed.

NOW THE CONDITION of this obligation is such that if the said lands shall henceforth be quietly held and enjoyed by the said [*purchaser*], his heirs and assigns, without any lawful interruption or disturbance on the part of any person, being issue of the said X.Y., who was living at his death or claiming through or under such issue or otherwise claiming title to the said lands on the ground that the said X.Y. left issue living at his death, then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

#### BOND OF AGENT FOR A FIRM.

KNOW ALL MEN by these presents that we, A.B., of —, and C.D., of —, are hereby held and firmly bound to — & Co., of —, in the sum of — dollars, to be paid to the said — & Co., their successors, representatives or assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

WHEREAS the above bounden A.B. has undertaken to transact business under the instructions of the said — & Co., and to sell — and other goods for and on behalf of the said — & Co., which are to be entrusted to him by the said — & Co., and to make proper returns to them for the same, and has agreed to carry out and faithfully perform all his obligations as specified in the written agreements between the said A.B. and the said — & Co., it being expressly understood and agreed that the said — & Co., have the right to change, alter and vary the terms of the written agreements aforementioned without in anywise invalidating this bond.

NOW THE CONDITION of this obligation is such that if the said A.B. shall faithfully account for, pay over and deliver to the said — & Co., all money, contracts, property and effects of every kind and nature whatsoever belonging to them, or which may come into his possession under or by virtue of the said written agreements as they have heretofore, do now, or may hereafter exist, and shall well and truly pay or cause to be paid any and every indebtedness or liability now existing or which may hereafter in any manner exist or be incurred on the part of the said A.B. to the said — & Co., then this obligation shall be void, but otherwise shall remain in full force and effect.

It is further expressly understood and agreed that — & Co., may in their discretion take and receive from the said A.B. any security whatsoever, personal or other, at any time or times, and grant any extension of time thereon, or on any liability of the said A.B. to the said — & Co., without in any way affecting the liability of the said A.B. and C.D. or either of them, or discharging or releasing them or either of them from the obligation of this bond.

And the said A.B. covenants, promises and agrees with the said — & Co., that he will, while employed, devote all his time and attention while so employed by them in the interest of their business, and that he will account for, hand over and deliver to the said — & Co., all such sums of money, notes, property, contracts, effects and securities for money which may be paid to him by any person whomsoever on their account, or which may be entrusted to him, or which may come into his

possession under and by virtue of the above-mentioned written agreements, and will pay and satisfy any indebtedness now existing or which may hereafter in any manner be incurred for which he may become indebted to the said — & Co.

SIGNED, SEALED, etc.

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#### BOND FOR FIDELITY OF CLERK.

KNOW ALL MEN by these presents that we A.B. of — and C.D. of — are held and firmly bound unto E.F. of — in the penal sum of — dollars, to be paid to the said E.F., or his executors, administrators or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, our and each of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

WHEREAS the said E.F. has agreed to admit G.H. into his service as a clerk, and to continue him in such service [subject to — months notice in writing on either side] on our becoming sureties for the said G.H. faithfully serving and accounting to him the said E.F., his executors and administrators, and other the person or persons who shall have become partner or partners with him, and his or their executors and administrators, in the manner hereinafter mentioned, so long as the said G.H. continues in such service; and whereas by the above written obligation we have become sureties accordingly.

NOW THE CONDITION of this obligation is such that if the said G.H. shall faithfully serve, and from time to time and at all times account for and pay over to the said E.F., his executors and administrators, and other the person or persons who shall have become partner or partners with him, and his and their executors and administrators, all moneys, securities for money, goods and effects whatsoever which he the said G.H. shall receive for their or any of their use, or for the use of any person or body politic to whom they or either of them shall be accountable, or which shall be entrusted to his care by them, or either or any of them, or by or for any person or body politic to whom they or any of them shall be accountable, and shall not embezzle, withhold, destroy or anywise injure any such

moneys, securities for money, goods and effects as aforesaid, or any books, papers, writings, goods or effects of them or either or any of them, then this obligation shall be void; but otherwise shall be and remain in full force and virtue.

[Provided always that each of the said sureties, or his executors or administrators, shall not be held separately liable for more than one-half of the penal sum secured by the above written obligation, and also that each of the said sureties may put an end to his liability on the above written obligation by giving to the said E.F., his executors or administrators, — months notice in writing of his intention so to do, and shall be free from liability for any event or default happening after the expiration of such notice.]

SIGNED, SEALED, etc.

### BOND BY EMPLOYEE

NOT TO ENGAGE IN BUSINESS IN COMPETITION WITH  
EMPLOYER (b).

KNOW ALL MEN by these presents that I, — [employee] of — am held and firmly bound unto — [employer] of — in the penal sum of — dollars to be paid to the said [employer], or to his executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS the said [employer] carries on business as a — at —, and has agreed to take the said [employee] into his employment [or, has agreed to continue to employ the said [employee] (c)] in connection with the said business in the capacity

(b) With respect to conditions concerning the validity of contracts in restraint of trade, and which apply equally to bonds given to secure such contracts, see the notes to *Michel v. Reynolds* (1711), 1 Sm. L.C. (10th ed.), at p. 391, and *Dubowski v. Goldstein*, [1896] 1 Q.B. 478; *William Robinson & Co. v. Heuer*, [1898] 2 Ch., 451; *Underwood & Son v. Barker*, [1899] 1 Ch. 300; and *Haynes v. Doman*, [1899] 2 Ch. 13.

(c) This is a sufficient consideration for the agreement by the employee, even though the latter may be dismissed at the will of the employer, see *Gravely v. Barnard* (1874), 18 Eq. 518, and *National Provincial Bank of England v. Marshall* (1888), 40 Ch. D., 112.



of [nature of the employment] upon an express agreement (d) that the said [employee] shall not, while in the employment of the said [employer], [or of his successors in business,] whether in the capacity in which he is now or in any other capacity, or during the period of — years [or, months] next after he shall, whether by reason of dismissal, retirement or otherwise, have ceased to be so employed directly or indirectly and whether as principal, agent, director of a company, traveller, servant or otherwise, carry on, or be engaged, or concerned, or take part in the business of — within — miles of —, except on behalf or with the consent in writing of the said [employer], [or his successors in business,] and also that in the event of his failing to observe or perform the said agreement he shall pay to the said [employer], [or his successors in business,] or other the person or persons for the time being entitled to the benefit of the said agreement, the sum of — dollars as and for liquidated damages. And also that he shall execute the above-written obligation conditioned as is hereinafter expressed.

NOW THE CONDITION of this obligation is such that the obligation shall be void in either of the following events, namely:

1. If the said [employee] shall not while in 'the employment of the said [employer], [or of his successors in business,] whether in his present or any other capacity or during the period of — years [or, months] after he shall, whether by reason of dismissal, retirement or otherwise, have ceased to be so employed directly or indirectly, and whether as principal, agent, director of a company, traveller, servant or otherwise, carry on, or be engaged, or concerned, or take part in the business of — within — miles of — except on behalf or with the consent in writing of the said [employer], [or his successors in business].

2. If the said [employee] shall fail to perform or observe the said agreement and shall in that event forthwith [or, upon demand] pay to the said [employer] [or his successors in business] or other the person or persons for the time being entitled to the

(d) It is better to state expressly the terms of the agreement than to leave them to be inferred from the condition of the bond; see *National Provincial Bank, etc. v. Marshall, supra*, where an agreement not to do certain things was inferred from a condition that, if done, the obligor should pay a sum of money as liquidated damages, and the obligee was therefore held entitled to prevent the things being done by injunction.

benefit of the said agreement the sum of — dollars as and for liquidated damages, but otherwise this obligation shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

### BOND TO PROTECT SECRET PROCESS

BY PARTNERSHIP WISHING TO USE PROCESS.

KNOW ALL MEN by these presents that we, A.B. and C.D. of —, carrying on business as —, are bound to E.F. of — in the sum of — dollars, to be paid by way of liquidated and ascertained damages to the said E.F., or his executors, administrators or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, our and each of our heirs, executors and administrators, firmly by these presents.

WHEREAS the said E.F. has imparted to the said A.B. and C.D. a certain secret process to be used in [the preparation of an article of food known as —].

AND WHEREAS the said A.B. and C.D. are now carrying on business under the name of "— & Co.," and by an agreement bearing even date herewith have agreed to acquire [certain rights in] the said process from the said E.F. for use in their business aforesaid, *or*,

AND WHEREAS the said A.B. and C.D. intend to carry on business under the name of "— & Co." for the purpose of the manufacture [*or as the case may be*] of the said secret process, as set out in an agreement bearing even date herewith.

AND WHEREAS by the said agreement it was expressly agreed that the said A.B. and C.D. should enter into the above written bond.

NOW THE CONDITION of the above written obligation is such that if the said A.B. and C.D. do well and truly keep the said secret and do not disclose it or suffer or permit it to be disclosed to any person whomsoever, whether in the employment of the said A.B. or C.D. or not, without the special license or consent of the said E.F. in writing, then the above written bond shall be void, but otherwise it shall remain in full force.

SIGNED, SEALED, etc.

## BOND TO PROTECT SECRET PROCESS

BY PERSON FORMING PARTNERSHIP WITH INVENTOR.

KNOW ALL MEN by these presents that I, — [partner] of — am held and firmly bound unto — [inventor] of — in the sum of — dollars to be paid to the said [inventor], his executors, administrators or assigns, as liquidated damages and not as a penalty, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS the said [inventor] has communicated to the said [partner] a secret process for the manufacture of [state what].

AND WHEREAS by an indenture dated the — day of — 19—, made between the said [inventor] of the one part and the said [partner] of the other part, the said [inventor] and [partner] agreed to enter into the partnership therein mentioned for the term of — years.

AND WHEREAS upon the execution of the said indenture it was agreed that the above written bond should be given for the preservation of the said secret.

NOW THE CONDITION of the above written obligation is such that if the said [partner] shall at all times hereafter [during the continuance of the said partnership] well and truly keep the said secret and do not disclose it or suffer it to be disclosed to any other person whomsoever except with the consent in writing of the said [inventor] then the above written obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

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## BOND TO SECURE PERFORMANCE OF AGREEMENT.

KNOW ALL MEN by these presents that I, — [obligor] of —, am held and firmly bound unto — [obligee] of —, in the penal sum of — dollars, to be paid to the said — [obligee], or to his executors, administrators or assigns, for which

payment well and truly to be made I bind myself, my heirs (e), executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

THE CONDITION of this obligation is such that if the above bounden — [obligor], his heirs, executors and administrators, shall henceforth at all times perform and observe the stipulations, provisions and conditions on his and their part to be performed and observed, and contained in an agreement dated the — day of — 19—, made between [describe parties], then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

#### BOND TO SECURE PAYMENT OF AN ANNUITY

FOR THE GRANTOR'S OR ANNUITANT'S LIFE.

KNOW ALL MEN by these presents that I, — [grantor] of — am held and firmly bound unto — [annuitant] of — in the penal sum of — dollars to be paid to the said [obligee] or to his executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

THE CONDITION of this obligation is such that if the above bounden [grantor], his heirs, executors or administrators, shall pay to the above named [annuitant], his executors, administrators or assigns, during the life of the said [grantor or annuitant] an annuity of — dollars by equal [quarterly] payments commencing on the — day of — next then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

#### BOND TO SECURE PAYMENT OF AN ANNUITY

BY GRANTOR, SURETY JOINING IN BOND.

KNOW ALL MEN by these presents that we — [grantor] of — and — [surety] of — are held and firmly bound unto

(e) Omit "heirs" if it is not intended that the obligation should extend to them.

— [annuitant] of — in the penal sum of — dollars to be paid to the said [annuitant], or to his executors, administrators or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, our and each of our heirs, executors and administrators, firmly by these presents.

SEALED with our respective seals and dated this — day of — 19—.

THE CONDITION of this obligation is such that if the above bounden [grantor] or [surety], or their respective heirs, executors or administrators, shall pay to the above named [annuitant], his executors, administrators and assigns, during the life of the said [grantor] an annuity of — dollars by equal [quarterly] payments commencing on the — day of — next, then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

#### POST OBIT BOND(f).

KNOW ALL MEN by these presents that I, — [obligor], of —, am held and firmly bound unto — [obligee] of —, in the penal sum of [\$1,000] to be paid to the said [obligee], or to his executors, administrators or assigns, for which payment well and truly to be made I bind myself, my heirs, executors and administrators, firmly by these presents.

SEALED with my seal and dated this — day of — 19—.

WHEREAS the said [obligee] has, at the request of the said [obligor], advanced to him the sum of [\$300] the receipt whereof the said [obligor] hereby acknowledges, upon an express agreement that in case the said [obligor] should die before — [relative] of —, the said [obligee] should not have or make any right or claim against the said [obligor], his estate or effects to repayment of the said last-mentioned sum of [\$300] or any part thereof or otherwise in respect of the said advance, but that in case the said [obligor] should survive the said [relative] the said [obligor] should, within — [weeks] after the death of the said [relative], pay to the said [obligee] the said sum of [\$300] and also the

(f) A bond for the payment of a sum of money in the event of the obligor surviving a relative from whom he has expectations.

further sum of [\$700] being the agreed consideration for the said advance and the risk taken by the said [obligee], which two last-mentioned sums make together the sum of [\$1,000], and also that the said [obligor] should execute the above written obligation upon the conditions hereinafter expressed.

NOW THE CONDITION of this obligation is such that the obligation shall be void in either of the following events, namely:

1. If the said [obligor] shall die before the said [relative].
2. If the said [obligor] shall survive the said [relative] and he, his heirs, executors or administrators, shall, within — [weeks] after the death of the said [relative] pay to the said [obligee], his executors, administrators or assigns, the sum of [\$1,000]; but otherwise this obligation shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

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# CHATTEL MORTGAGES.

## CHATTEL MORTGAGE.

*(General form, with special clauses.)*

(R.S.O., c. 148.)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, herein-after called the mortgagor, of the first part, and — of the — of — in the county of —, —, hereinafter called the mortgagee, of the second part.

WITNESSETH that the mortgagor in consideration of — dollars to him paid by the mortgagee at or before the sealing and delivery of these presents (the receipt whereof is hereby acknowledged) doth hereby grant, bargain, sell and assign unto the mortgagee, his executors, administrators and assigns, all and singular

### *Description of chattels.*

The goods and chattels following, that is to say: [*Here insert a full and accurate description of each article intended to be mortgaged, so that it may be readily and easily known and distinguished.*] [*or, the goods and chattels particularly described in the schedule hereto annexed marked "A."*]

### *Mortgage of crops.*

The crops growing or to be grown during the year 19—, on the [*describe the lands with particularity*].

### *Assignment of book debts.*

And by way of additional security for the moneys hereby secured the mortgagor doth hereby grant, bargain, sell and assign unto the mortgagee all book debts, claims, money, demands mortgages, bills, notes, cheques, judgments, choses in action, both present and future, and all books and papers, both present and future, containing any entries of or in any wise relating thereto, and particularly all such book debts, claims, money, demands, mortgages, bills, notes, cheques, judgments, choses

in action, books and papers which arise in connection with or are related to or shall hereafter arise in connection with or relate to the business now carried on or which shall hereafter be carried on by the mortgagor.

*Hotel property.*

Also all wines, liquors, cigars, furniture, household stuff and all other goods and chattels of every nature and kind the property of the mortgagor, without restriction to the description in the schedule hereto annexed marked "A," which are now in and upon the said hotel and lands hereinafter mentioned; and also all other wines, liquors and cigars, furniture, household stuff and all other goods and chattels of every nature and kind which, being the property of the mortgagor, shall be brought in or upon the said hotel and lands during the currency of this mortgage (a) or any renewal thereof

*Farm stock, crops, produce, etc.*

Also all the farm stock of the mortgagor, without restriction to the above description, including implements, vehicles, harness, horses, cattle, sheep, hogs and fodder now upon the lands hereinafter mentioned or which may hereafter be brought upon the said lands while in possession of the mortgagor or during the continuance of this security and any renewal thereof, and after as well as before the last day hereinafter provided for payment, until the mortgage is fully paid, (b) and also all seed grain and other seed or vegetables for seeding purposes now upon or which may hereafter be upon the said lands, and also the crops and produce of every description whether grain, hay, clover, vegetables or fruit now in process of growth, or which may hereafter be in process of growth, upon the said lands during the continuance of this security and any renewal thereof, and whilst the said lands are in possession of the mortgagor and after as well as before the last day hereinafter provided for payment, until the mortgage is fully paid, the intention being that this mortgage shall attach on such crops in every stage until their maturity and after their maturity whether severed or not from the realty.

(a) See second paragraph on next page and also p 251.

(b) For Manitoba, the remainder of this paragraph should be omitted; as to this, see note under "Seed Grain Mortgage" among the Manitoba forms.



*Locality of goods.*

All of which said goods and chattels are the property of the mortgagor, and are now [ordinarily] situate, lying and being in an and upon [the property of the mortgagor] situate [*here describe accurately the lands upon which the goods, etc., are at the date of the execution of the mortgage, and the exact locality of each article as nearly as possible.*]

*Subsequently acquired goods.*

*If it is desired to secure goods subsequently brought upon the lands add,]* and also all goods and chattels which may be added to or substituted for the said goods and chattels, or any of them, as hereinafter mentioned (c) or which shall hereafter be brought by the mortgagor upon the said lands or upon any other lands to which the mortgagor, his executors or administrators, may remove the said goods and chattels or any of them during the currency of this mortgage or any renewal thereof.

*Payment of mortgage money.*

Provided that if the mortgagor, his executors or administrators, pay or cause to be paid unto the mortgagee, his executors, administrators or assigns, the sum of — dollars, with interest thereon at the rate of — per cent (d) per annum as follows: [*Here set out the time and mode of payment*], then these presents shall be void.

*Note given as collateral security.*

*When a promissory note is given as collateral security, add the following after setting out the time and mode of payment: or shall pay or cause to be paid a certain promissory note bearing even date herewith made by the mortgagor to the mortgagee, payable*

(c) See p. 251.

(d) Can. 1900, c. 29, s. 1, requires that if the interest is made payable at a rate or percentage for any period less than a year—e. g. per day, week or month.—not more than 5% shall be charged unless the contract also shews the yearly rate to which the other rate is equivalent. In such a case add, and it is hereby expressly stated that the interest aforesaid is equivalent to the yearly rate or percentage of — per cent.

Under the Ontario statute (1904, c. 17) a refund may be ordered in favor of the borrower in respect of a loan, not exceeding \$200, if there is a concealment or omission by the lender of any material fact or term of the contract or of the rate per cent per annum, if such concealment or omission induces the contract and the cost of the loan exceeds 10% per annum. This applies specially to chattel mortgages in which no interest is reserved but a cash discount is taken in advance.

— months [*or as the case may be*] after the date thereof for the sum of — dollars with interest thereon at the rate of — per cent per annum, or shall pay or cause to be paid all renewals of the said note maturing within the period of one year (*e*) from the date hereof, whether for the whole sum or any part thereof with interest thereon at the rate aforesaid, which said note was given and received as collateral security for the payment of the debt hereby secured, then these presents, etc.

*Interest on money in arrear.*

And it is agreed that if default be made in the payment of any sum due hereunder, whether for principal, interest or otherwise, then interest shall be paid on any sum so in arrear, at the said rate, until the whole sum due is fully paid.

*Warranty of goods.*

And the mortgagor for himself, his executors and administrators, shall and will warrant and forever defend by these presents all and singular the said goods and chattels unto the mortgagee, his executors, administrators and assigns, against him, the mortgagor, his executors and administrators, and against every other person whomsoever.

*Covenant for payment.*

And the mortgagor, for himself, his executors and administrators, hereby covenants with the mortgagee, his executors, administrators and assigns, that he will pay or cause to be paid to the mortgagee, the said sum of money in the above proviso mentioned, with interest thereon as aforesaid on the days and times and in the manner above limited for the payment thereof.

*Powers on default.*

And also, in case default shall be made in the payment of the said money in the said proviso mentioned, or of the interest thereon, or any part thereof, or if the mortgagor shall (without having first obtained the consent in writing of the mortgagee, his executors, administrators or assigns to such sale, removal or disposal) sell or attempt to sell or dispose of or in any way part with the possession of the said goods and chattels, or any

(*e*) In Manitoba, Alberta, Saskatchewan and the Yukon Territory this period is two years (R.S.M., c. 11, s. 6; Con. Ord. N.W.T., c. 43, s. 8; Con. Ord. Yukon, c. 39, s. 8).

of them, or shall remove or attempt to remove them, or any part thereof, out of the county or —, [or, from the lands where they now are or to which they may have been removed with the consent of the mortgagee], or if the mortgagee, his executors, administrators or assigns should at any time feel unsafe or insecure, or deem the said goods and chattels in danger of being sold or removed, or if there shall be issued against the mortgagor, his executors or administrators, any writ or process for a money demand or any writ of execution or any warrant of distress for any rent or taxes in respect of the lands in or upon which the said goods and chattels, or any part thereof, may at any time during the currency of this mortgage or any renewal thereof be situate, or if the mortgagor shall suffer, allow or permit a judgment to be obtained against him for any debt, or shall suffer the said goods and chattels, or any of them, to be seized or taken in execution, or shall suffer, allow or permit any rent, taxes, rates or assessments whatsoever for which he now is, or may hereafter, while this mortgage, or any renewal thereof, shall be in force, be liable or assessed in respect of any lands whereon the said goods and chattels or any of them may then be situate, to remain unpaid and unsatisfied for a period of — days after the same have become due; or if the mortgagor, his executors or administrators, shall fail to pay the rent arising out of the lands and premises upon which are situate and lying the said goods and chattels, at any time during the currency of this mortgage, or any renewal thereof, promptly when [or, — days at least before] such rent becomes due, or if the mortgagor, his executors or administrators, shall fail to insure and keep insured the said goods and chattels within the meaning of the provisions of this indenture, or shall abandon the said goods and chattels, or any part thereof, or make an assignment for the benefit of his creditors, or be arrested on any criminal charge, or if a writ of capias or of attachment or order of arrest shall issue against the mortgagor, or if default shall be made in the performance of any of the covenants by the mortgagor in this indenture contained, then and in every such case all the money secured by this indenture shall, at the option of the mortgagee, his executors, administrators or assigns, immediately become due and be payable, and the mortgagee, his executors, administrators or assigns may, with his or their servants, and with such other assistance

as he or they may require at any time during the day or night, enter into and upon any lands, tenements, houses and places wheresoever and whatsoever where the said goods and chattels, or any part thereof, may be, and such persons may break and force open any doors, locks, bars, bolts, fastenings, hinges, gates, fences, houses, buildings, enclosures and places for the purpose of taking possession of and removing the said goods and chattels; [In the case of a mortgage of growing crops, add, and if the said crops have not matured at the time of taking possession as aforesaid, then the mortgagee, his executors, administrators or assigns shall be at liberty to remain in possession of the said premises until the crops aforesaid have matured and been converted into marketable form and sold,] and upon and from and after the taking possession of such goods and chattels as aforesaid the mortgagee, his executors, administrators or assigns, and each or any of them, may and he and they are hereby authorized and empowered to sell the said goods and chattels, or any of them, or any part thereof, at public auction or private sale, as to him them or any of them may seem meet: and from and out of the proceeds of such sale in the first place to pay all such sums of money and interest as may then be secured by virtue of these presents, and all costs and expenses which have been incurred by the mortgagee, his executors, administrators or assigns, in the protection of this security, or in consequence of the default, neglect or failure of the mortgagor, his executors, administrators or assigns, in payment as above mentioned or in respect of the non-performance of any covenant herein contained or in consequence of such sale or removal or otherwise as above mentioned; and in the next place to pay unto the mortgagor, his executors, administrators or assigns, such surplus as may remain after such sale, and after payment of all such sums of money and interest thereon as may be secured by these presents and of the costs, charges and expenses incurred by such seizure and sale as aforesaid.

*Payment of deficiency.*

And the mortgagor doth hereby for himself, his executors and administrators further covenant and agree with the mortgagee, his executors, administrators and assigns, that in case the sum of money realized under any such sale as above mentioned shall not be sufficient to pay the whole amount payable

under the provisions of this indenture at the time of such sale, he, the mortgagor, his executors or administrators, shall forthwith pay or cause to be paid unto the mortgagee, his executors, administrators or assigns the amount of such deficiency, as well as and including all costs and expenses which may have been incurred by the mortgagee, his executors, administrators and assigns, in and about such seizure and sale and otherwise as aforesaid.

*Power to sell chattels separate from land.*

[When the mortgage is given as collateral security to a mortgage on land, and it is desired to have power to sell the chattels separately, add.] The mortgagee shall be at liberty, in exercising the power of sale hereinbefore given, to sell the said goods or chattels either in one block or separately, or in several parcels (and either with or without the realty mortgaged to the mortgagee as the primary security for the mortgage debt) or in any other way in the mortgagee's discretion best adapted to realize the mortgage debt.

*Keeping possession instead of selling.*

Provided that it shall not be incumbent on the mortgagee, his executors, administrators or assigns, to sell and dispose of the said goods and chattels, but that in case of any default as aforesaid the mortgagee, his executors, administrators or assigns may peaceably and quietly have, hold, use, occupy, possess and enjoy the said goods and chattels without the let, molestation, eviction, hindrance or interruption of the mortgagor, his executors, administrators or assigns, or any of them, or any other person whomsoever.

*Power of distress.*

Provided that the mortgagee, his executors, administrators or assigns, may, in default of payment of any interest or instalments hereinbefore mentioned, or any part thereof, distrain for the whole principal sum then unpaid, with the accrued interest thereon.

*Mortgagee put in possession.*

And the mortgagor doth put the mortgagee in full possession of the said goods and chattels by delivering to him this indenture, at the sealing and delivery hereof, in the name of all the said goods and chattels.

*Mortgage upon a stock in trade.*

The mortgagor, for himself, his executors and administrators covenants with the mortgagee, his executors, administrators and assigns, that he and they will, during the currency of this mortgage, and any renewals thereof, keep up the amount of the stock in trade on the said premises so that at no time will it be less than the actual cash value of — dollars if sold by public auction, and that if, during the said period the said stock in trade should not be of such value (as to which the mortgagee, his executors, administrators and assigns shall be sole judge) all the moneys secured by this indenture shall, at the option of the mortgagee, his executors, administrators and assigns, immediately become due and be payable, and the mortgagee, his executors, administrators and assigns, may forthwith take any and all proceedings for the better securing himself or themselves, and for enforcing and obtaining payment of the money secured hereby as though default had actually been made in the payment of the moneys secured hereby or any part thereof.

*Sale by retail to continue.*

It is hereby agreed that the mortgagor shall be at liberty to make sales by retail of the goods and chattels hereby mortgaged in the ordinary course of business until the mortgagee shall notify him in writing to the contrary.

*Insurance.*

And the mortgagor for himself, his executors and administrators, further covenants with the mortgagee, his executors, administrators and assigns, that he and they will, during the continuance of this mortgage, and of any and every renewal thereof, insure and keep insured the goods and chattels hereinbefore mentioned against loss and damage by fire in some insurance company authorized to transact business in Canada, and approved of by the mortgagee, his executors, administrators or assigns, in the sum of not less than — dollars [or, their full insurable value] as security for all moneys secured by this indenture, for the benefit of the mortgagee, his executors, administrators and assigns, and will pay all premiums and moneys necessary for that purpose as [or, three days at least before] such premiums and moneys become due and payable,

the loss, if any, to be payable to the mortgagee, his executors, administrators or assigns, and the production of this indenture shall be sufficient authority for and such insurance company is hereby directed thereupon to pay such loss, if any, to the mortgagee, his executors, administrators or assigns; and the mortgagor for himself, his executors and administrators, hereby agrees that he will, on demand, assign and deliver over to the mortgagee, his executors, administrators or assigns, every such policy of insurance and the receipts thereto appertaining. Provided that if the said insurance is not effected, or not kept duly renewed, and default be made by the mortgagor, his executors or administrators, in payment of the said premiums or of any sum of money hereby secured, or of the rent for the premises whereon the said goods and chattels may at any time be situated, the mortgagee, his executors, administrators or assigns, may pay the same, and such sums of money shall be added to the debt hereby secured, and shall be forthwith repayable and shall bear interest at the same rate from the day of such payment.

*Possession until default.*

Provided that until default shall be made in any of the covenants or provisoes herein contained the mortgagor shall have peaceable and quiet possession and use of the said goods and chattels.

*Collateral and other security (f).*

Provided always that the mortgagee, his executors, administrators or assigns, may accept from time to time the bills, notes, or other negotiable instruments of the mortgagor, his executors or administrators, or of any other person or persons, for the said moneys, or any of them, or as further or collateral security therefor or for any part thereof, and may accept renewals thereof in whole or in part from time to time, and may compound the same or any of them or relinquish them or any of them with or without security, without affecting or prejudicing the rights and remedies of the mortgagee under these presents, [which said bills, notes or negotiable instruments shall be a security collateral to all other claims and rights of the mortgagee in the premises,] and provided that such bills, notes or

(f) See clause on p. 244 as to collateral security.

negotiable instruments shall all mature and become due and payable within one (g) year from the date hereof, and if such have been or may hereafter be given the payment thereof shall be deemed payment pro tanto of this mortgage, or,

*When the mortgage is collateral to a debt.*

It is hereby understood and agreed that these presents, and any notes, acceptances or other negotiable paper or renewals thereof now or hereafter taken in respect of the said indebtedness or any part thereof, are a collateral security only.

*Substituted goods.*

It is hereby declared and agreed that in case any goods or chattels of a class or kind similar to those herein mentioned shall at any time during the continuance of this security be added to the said goods and chattels either as an augmentation thereof or in substitution for any part or article thereof which may happen to be lost or cease to exist or be sold or disposed of, then such additional or substituted goods and chattels shall be deemed to be covered and assigned and mortgaged by these presents and to be subject to all the terms, covenants, conditions and powers herein contained.

*Costs of mortgage and renewals.*

The mortgagor covenants with the mortgagee that he will pay the costs, charges and expenses of and incidental to the taking, preparation, execution and registration of these presents and of every renewal thereof.

*Solicitor's costs on default.*

And it is expressly agreed that if default is made in the payment of the moneys hereby secured, and this mortgage is put in a solicitor's hands for collection, a solicitor's fee of [ten] dollars shall forthwith be chargeable and such fee shall be added to the principal money hereby secured.

IN WITNESS, etc.

SIGNED, SEALED, etc. (gg)

(g) For Manitoba, Alberta, Saskatchewan and Yukon Territory see notes on p. 257.

(gg) In Ontario, mortgages must be registered within five days from the execution thereof," and a copy may be registered instead of the original (R.S.O., c. 148, s. 2).



## AFFIDAVIT OF EXECUTION

OF CHATTEL MORTGAGE.

(R.S.O., c. 148, s. 2.)

ONTARIO; }  
 County of —, } I, —, of the — of — in the county  
 To Wit: } of —, —, make oath and say:

1. I was personally present and did see the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (*h*)] duly signed, sealed and executed by —, one of the parties thereto.

2. The name "—" set and subscribed as a witness to the execution of the said mortgage is of the proper handwriting of me this deponent.

3. The said mortgage was executed at the — of —, in the said county of —, on the — day of — 19—.

SWORN, etc.

## AFFIDAVIT OF BONA FIDES

BY SOLE MORTGAGEE (*i*).

(R.S.O., c. 148, ss. 2, 3.)

ONTARIO; }  
 County of —, } I, —, of the — of — in the county  
 To Wit: } of —, —, the mortgagee in the foregoing  
 [or, annexed] mortgage [or, bill of sale by way  
 of mortgage (*h*)] named, make oath and say:

1. —, the mortgagor in the foregoing [or, annexed] mortgage named is justly and truly indebted to me, this deponent, the mortgagee therein named, in the sum of — dollars mentioned therein.

2. The said mortgage was executed in good faith and for the express purpose of securing the payment of the money so justly due or accruing due as aforesaid, and not for the purpose of protecting the goods and chattels mentioned in the said mortgage.

(*h*) There is no authority for using the words "bill of sale by way of mortgage" if the instrument is really a mortgage: If, however, the instrument is a "conveyance intended to operate as a mortgage" (R.S.O. c. 148, s. 2) the words "bill of sale by way of mortgage" may properly be used.

(*i*) When the mortgage is made to an incorporated company, see form on page 254.

gage against the creditors of the said —, the mortgagor therein named, or of preventing the creditors of such mortgagor from obtaining payment of any claim against the said mortgagor.

Sworn, etc.

### AFFIDAVIT OF BONA FIDES

BY ONE OF SEVERAL MORTGAGEES.

(R.S.O., c. 148, ss. 2, 3.)

ONTARIO;

County of —, } I, —, of the — of —, in the county  
To Wit: } of —, —, make oath and say:

1. I am one of the mortgagees in the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (*h*)] named, and I am aware of all the circumstances connected therewith (*j*).

2. That —, the mortgagor in the foregoing [or, annexed] mortgage named, is justly and truly indebted jointly to me, this deponent, and to —, the other mortgagee therein named, in the sum of — dollars mentioned therein.

3. The said mortgage was executed in good faith and for the express purpose of securing the payment of the money so justly due or accruing due as aforesaid, and not for the purpose of protecting the goods and chattels mentioned in the said mortgage against the creditors of the said —, the mortgagor therein named, or of preventing the creditors of such mortgagor from obtaining payment of any claim against the said mortgagor.

Sworn, etc.

### AFFIDAVIT OF BONA FIDES

BY AGENT OF MORTGAGEE.

(R.S.O., c. 148, ss. 2, 3; Ont. 1903, c. 7, s. 30.)

ONTARIO;

County of —, } I, E.F., of the — of —, in the  
To Wit: } county of —, —, make oath and say:

(*j*) *Severn v. Clarke*, 30 U.C.C.P. 363; *McLeod v. Fortune*, 19 U.C.R. 100; *See Melville v. Stringer*, 12 Q.B.D. 132; 13 Q.B.D. 392.

1. I am the duly authorized agent of C.D., the mortgagee in the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (*h*)] named for the purposes of the said mortgage and I am aware of all the circumstances connected with the said mortgage, and I have a personal knowledge of the facts deposed (*k*) to.

2. I am duly authorized in writing to take such said mortgage and the paper writing marked "B" attached to the said mortgage is [a true copy of] my authority to take such mortgage.

3. That A B., the mortgagor in the foregoing [or, annexed] mortgage named, is justly and truly indebted to C.D., the mortgagee therein named, in the sum of — dollars mentioned therein.

4. The said mortgage was executed in good faith and for the express purpose of securing the payment of the money so justly due or accruing due, as aforesaid, and not for the purpose of protecting the goods and chattels mentioned in the said mortgage against the creditors of the said A.B., the mortgagor therein named, or of preventing the creditors of such mortgagor from obtaining payment of any claim against the said mortgagor.

SWORN, etc.

### AFFIDAVIT OF BONA FIDES

#### OF CHATTEL MORTGAGE

BY OFFICER OF A COMPANY (*l*).

(R.S.O., c. 148, ss. 2, 3; Ont. 1903, c. 7, s. 30.)

ONTARIO;

County of —, } I, —, of the — of —, in the  
To Wit: } county of —, —, make oath and say:

1. I am the [manager, or as the case may be] of the — Company, the mortgagee in the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (*h*)] named, and I am aware

(*k*) S. 30 of c. 7 of the Ontario statutes of 1903 requires that the affidavits of bona fides when made by an agent shall state "that the deponent is aware of the circumstances connected with the mortgage, and has personal knowledge of the facts deposed to."

(*l*) This affidavit may be made by the president, vice-president, manager, assistant-manager, secretary, or treasurer, or other officer or agent of the company duly authorized by resolution of the directors in that behalf (Ont. 1903, c. 7, s. 30).

of all the circumstances connected with the said mortgage, and I have a personal knowledge of the facts herein deposed to.

2. I am the agent of the said mortgagee duly authorized by resolution of the directors to take such mortgage, and the paper writing marked "B," attached to the said mortgage, is a true copy of such authority.

3. A.B., the mortgagor in the foregoing [or, annexed] mortgage named, is justly and truly indebted to the said company, the mortgagee therein named, in the sum of — dollars mentioned in the said mortgage.

4. The said mortgage was executed in good faith and for the express purpose of securing the payment of the money so justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned in the said mortgage against the creditors of the said A.B., the mortgagor therein named, or of preventing the creditors of such mortgagor from obtaining payment of any claim against the said mortgagor.

# DECLARATION OF MORTGAGOR

ON GIVING A CHATTEL MORTGAGE (m).

PROVINCE                      } I, —, of the — of — in the province  
of —,                                } of —, —, the within named mortgagor,  
To Wit:                            } do solemnly declare:

1. That my name and surname are both correctly spelled in the within mortgage, and I am correctly described therein, and that the said mortgage was read over and explained to me and I verily believe that I understand the same.

2. I am now absolutely, and in my sole and exclusive right, the owner and possessor of the goods and chattels mentioned and described in the said mortgage, and they are fully paid for.

3. The said goods and chattels are correctly described in the said mortgage and are now all in good condition and repair and are worth to-day at least — dollars in cash.

4. My liabilities in all do not exceed — dollars.

5. There is no mortgage, hypothec, lien, note or claim of any kind or nature, adverse to my rights, of, upon, or against such

(m) This declaration is not required by the Act, but is merely for additional protection to the mortgagee.

goods and chattels, or any portion of them, save the within mortgage, and no taxes or rent are due on the lands and premises on which the said goods and chattels or any of them are situated.

6. There is no judgment or execution of any kind now in force or extant against me. I claim the said chattels, or such portion thereof as may properly be so claimed as exempt from seizure for rent or under any execution or other process of any court, and I will so claim them until the said mortgage is fully paid and satisfied. I undertake to pay the said mortgage according to the tenor thereof, and not to sell, exchange, or otherwise dispose of any of the chattels therein described, without the consent in writing of the mortgagee therein mentioned, until the said mortgage and interest are fully paid.

7. I am over twenty-one years of age.

8. I am the [tenant] of the premises whereon the said goods are situate at a [monthly] rental of —, payable to — as landlord, and the rent is paid up to the — day of — 19—.

9. I make the above statements (among others) with the intent and for the express purpose of inducing the within named mortgagee to advance me money on the security of the said mortgage.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED, etc.

### CHATTEL MORTGAGE

TO SECURE MORTGAGEE AGAINST LIABILITY AS INDORSER FOR MORTGAGOR.

(R.S.O., c. 148, s. 8.)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the mortgagor, of the first part, and — of the — of — in the county of —, —, hereinafter called the mortgagee of the second part.

WHEREAS the mortgagee, at the request of the mortgagor and for his accommodation, has indorsed a certain promissory note of the mortgagor for the sum of — dollars, which said

note is in the words and figures following, that is to say: [*here give an exact copy of the note or notes and of the indorsements thereon*].

AND WHEREAS in consideration thereof the mortgagor has agreed to enter into these presents for the purpose of indemnifying and saving harmless the mortgagee of and from the payment of the said recited note or any part thereof, or any note or notes hereafter to be indorsed by the mortgagee for the accommodation of the mortgagor by way of renewal of the said recited note (so that, however, any such renewal shall not extend the time of payment of the said note or the liability of the mortgagor beyond the period of one (*n*) year from the date hereof, nor increase the amount of the said liability beyond the amount of the interest accruing thereon), and against any loss that may be sustained by the mortgagee by reason of such indorsement of the said recited note or any renewal thereof.

NOW THIS INDENTURE WITNESSETH that the mortgagor, in consideration of the premises and of the sum of one dollar to him paid by the mortgagee at or before the sealing and delivery of these presents, (the receipt whereof is hereby acknowledged,) doth hereby grant, bargain, sell and assign unto the mortgagee, his executors, administrators and assigns, all and singular the goods and chattels following, that is to say: [*here insert a full and accurate description of each article intended to be mortgaged, so that it may be readily and easily known and distinguished*], [or, the goods and chattels particularly described in the schedule hereto annexed marked "A"] all of which said goods and chattels are the property of the mortgagor, and are now situate, lying and being in and upon [the property of the mortgagor] situate [*here describe accurately the lands upon which the goods, etc., are at the date of the execution of the mortgage, and the exact locality of each article as nearly as possible*]. [If it is desired to secure goods subsequently brought upon the lands add, and also all goods and chattels which may be added to or substituted for the said goods and chattels, or any of them, as hereinafter mentioned (*o*) or which shall hereafter be brought by the mortgagor upon the said lands or upon

(*n*) In Manitoba, Alberta, Saskatchewan and the Yukon Territory this period is two years (R.S.M., c. 11, s. 6; Con. Ord. N.W.T., c. 43, s. 8; Con. Ord. Yukon, c. 39, s. 8).

(*o*) See p. 251.

any other lands to which the mortgagor, his executors or administrators, may remove the said goods and chattels or any of them during the currency of this mortgage or any renewal thereof.]`

*[Here insert such special clauses as may be required from form on p. 242.]*

Provided that if the mortgagor, his executors or administrators, pay or cause to be paid at maturity the said note so indorsed by the mortgagee as aforesaid, a copy of which said note is set out in the recital to this indenture, and pay or cause to be paid every other note which may hereafter be indorsed by the mortgagee for the accommodation of the mortgagor by way of renewal of the said note, which shall not extend the liability of the mortgagee beyond one (*p*) year from the date hereof, and all interest in respect thereof, and indemnify and save harmless the mortgagee, his heirs, executors and administrators, from all loss, costs, charges, damages or expenses in respect of the said recited note or renewals thereof as hereinbefore set forth, then these presents shall be void.

And the mortgagor for himself, his executors and administrators, shall and will warrant and forever defend by these presents all and singular the said goods and chattels unto the mortgagee, his executors, administrators and assigns, against him the mortgagor, his executors and administrators and against all and every other person or persons whomsoever.

And the mortgagor, for himself, his executors and administrators, hereby covenants with the mortgagee, his executors, administrators and assigns, that the mortgagor, his executors or administrators, or some or one of them, shall pay or cause to be paid the said note and any renewal thereof which the mortgagee shall hereafter indorse for the accommodation of the mortgagor as aforesaid, and all interest and incidental expenses to accrue thereon, and will indemnify and save harmless the mortgagee, his heirs, executors and administrators, from all loss, costs, charges, damages or expenses in respect thereof.

And also, in case default shall be made in the payment of the said recited note, or any renewal thereof, as in the said proviso mentioned, or of the interest thereon, or any part

(*p*) For Manitoba, Alberta, Saskatchewan and Yukon Territory see note (*n*) on p. 257.

thereof; or if the mortgagor shall (without having first obtained the consent in writing of the mortgagee, his executors, administrators or assigns, to such sale, removal or disposal,) sell or attempt to sell or dispose of or in any way part with the possession of the said goods and chattels, or any of them, or shall remove or attempt to remove them, or any part thereof, out of the county of — [or, from the lands where they now are, or to which they may have been removed with the consent of the mortgagee]; or if the mortgagee, his executors, administrators or assigns, should at any time feel unsafe or insecure, or deem the said goods and chattels in danger of being sold or removed; or if there shall be issued against the mortgagor, his executors or administrators, any writ or process for a money demand or any writ of execution or any warrant of distress for any rent or taxes in respect of the lands in or upon which the said goods and chattels, or any part thereof, may at any time during the currency of this mortgage or any renewal thereof be situate; or if the mortgagor shall suffer, allow or permit a judgment to be obtained against him for any debt, or shall suffer the said goods and chattels or any of them to be seized or taken in execution, or shall suffer, allow or permit any rent, taxes, rates or assessments whatsoever for which he now is, or may hereafter, while this mortgage or any renewal thereof shall be in force, be liable or assessed, in respect of any lands whereon the said goods and chattels or any of them may then be situate to remain unpaid and unsatisfied for a period of — days after the same has become due; or if the mortgagor, his executors or administrators, shall fail to pay the rent arising out of the lands and premises upon which are situate and lying the said goods and chattels, at any time during the currency of this mortgage, or any renewal thereof, promptly when [or, — days at least before] such rent becomes due; or if the mortgagor, his executors or administrators, shall fail to insure and keep insured the said goods and chattels within the meaning of the provisions of this indenture, or shall abandon the said goods and chattels or any part thereof, or make an assignment for the benefit of his creditors, or be arrested on any criminal charge, or if a writ of *capias* or of attachment or order for arrest shall issue against the mortgagor; or if default shall be made in the performance of any of the covenants by the mortgagor in this indenture contained; then and in



every such case all the money secured by this indenture shall, at the option of the mortgagee, his executors, administrators or assigns, immediately become due and be payable, and the mortgagee, his executors, administrators or assigns may, with his or their servants, and with such other assistance as he or they may require at any time during the day or night enter into and upon any lands, tenements, houses and places wheresoever and whatsoever where the said goods and chattels, or any part thereof, may be, and such persons may break and force open any doors, locks, bars, bolts, fastenings, hinges, gates, fences, houses, buildings, enclosures and places for the purpose of taking possession of and removing the said goods and chattels; [*In the case of a mortgage of growing crops, add,* and if the said crops have not matured at the time of taking possession as aforesaid, then the mortgagee, his executors, administrators or assigns, shall be at liberty to remain in possession of the said premises until the crops aforesaid have matured and been converted into marketable form and sold] and upon and from and after the taking possession of such goods and chattels as aforesaid the mortgagee, his executors, administrators or assigns, and each or any of them may, and he and they are hereby authorized and empowered to, sell the said goods and chattels or any of them, or any part thereof, at public auction or private sale as to him, them or any of them may seem meet. And from and out of the proceeds of such sale in the first place to pay all such sums of money and interest as may then be secured by virtue of these presents on the said recited note, or any renewals thereof as aforesaid, and all costs and expenses which have been incurred by the mortgagee, his executors, administrators or assigns, in the protection of this security, or in consequence of the default, neglect or failure of the mortgagor, his executors, administrators or assigns, in payment of the said recited note or any renewals thereof as above mentioned, or in respect of the non-performance of any covenant herein contained, or in consequence of such sale or removal, or otherwise, as above mentioned; and in the next place to pay unto the mortgagor, his executors, administrators or assigns, such surplus as may remain after such sale, and after payment of all such sums of money and interest thereon as the mortgagee shall be called upon to pay by reason of indorsing the said recited note in the said recital and proviso mentioned or any renewal thereof to be indorsed by the

mortgagee for the mortgagor as aforesaid, at the time of such seizure, and after payment of the costs, charges and expenses incurred by such seizure and sale as aforesaid.

Provided that it shall not be incumbent on the mortgagee his executors, administrators or assigns, to sell and dispose of the said goods and chattels, but that in case of default of payment of the said recited note, or any renewal thereof, as aforesaid, the mortgagee, his executors, administrators and assigns, may peaceably and quietly have, hold, use, occupy, possess and enjoy the said goods and chattels without the let, molestation, eviction, hindrance or interruption of him, the mortgagor, his executors, administrators or assigns, or any of them, or any other person whomsoever.

And the mortgagor for himself, his executors and administrators, further covenants with the mortgagee, his executors, administrators and assigns, that in case the sum of money realized under any such sale as above mentioned shall not be sufficient to pay the whole amount due under the provisions of this indenture at the time of such sale he, the mortgagor, his executors or administrators, shall forthwith pay or cause to be paid unto the mortgagee, his executors, administrators or assigns, such sums of money, together with the interest thereon, as may then be remaining due upon or under the said note or any renewal thereof as aforesaid, as well as and including all costs and expenses which may have been incurred by the mortgagee, his executors, administrators and assigns, in and about such seizure and sale and otherwise as aforesaid.

And the mortgagor doth put the mortgagee in full possession of the said goods and chattels by delivering to him this indenture, at the sealing and delivery hereof, in the name of all the said goods and chattels.

*[Here add such clauses from the general form, p. 242, as may be desired.]*

IN WITNESS, etc.

SIGNED, SEALED, etc.

*[For Affidavit of Execution, see p. 252.]*

## AFFIDAVIT OF BONA FIDES

BY SOLE MORTGAGEE.

MORTGAGE TO SECURE INDORSER.

(R.S.O., c. 148, s. 8; Ont., 1903, c. 7, s. 30.)

ONTARIO;                    I, —, of the — of — in the county  
 County of —,            } of —, —, the mortgagee in the foregoing  
                               } [or, annexed] mortgage [or, bill of sale by way  
 To Wit:                 } of mortgage (p)] named, make oath and say:

1. The foregoing [or, annexed] mortgage fully sets forth the agreement entered into between me, —, and the said mortgagor therein named, and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage.

2. The said mortgage was and is executed in good faith and for the express purpose of securing me, the mortgagee therein named, against my indorsement for the mortgagor therein named of the promissory note for — dollars, mentioned in the said mortgage, or any renewals of the said note, as set out in the said mortgage, and against the payment of the amount of such my liability for the said mortgagor as set out in the said mortgage, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of —, the mortgagor therein named, nor to prevent such creditors from recovering any claims which they may have against such mortgagor.

SWORN, etc.

## AFFIDAVIT OF BONA FIDES

BY ONE OF SEVERAL MORTGAGEES.

MORTGAGE TO SECURE INDORSER.

(R.S.O., c. 148, s. 8; Ont. 1903, c. 7, s. 30.)

ONTARIO;                    I, —, of the — of — in the county  
 County of —,            } of —, —, make oath and say:  
 To Wit:                 }

1. I am one of the mortgagees in the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (p)] named and I am aware of all the circumstances connected therewith.

(p) See note (h) on p. 252.

2. The foregoing [*or, annexed*] mortgage fully sets forth the agreement entered into between the mortgagees in the said mortgage named and the said mortgagor therein named and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage.

3. The said mortgage was and is executed in good faith and for the express purpose of securing us, the mortgagees therein named, against our indorsement for the mortgagor therein named of the promissory note for — dollars mentioned in the said mortgage or any renewals of the said note as set out in the said mortgage and against the payment of the amount of such our liability for the said mortgagor as set out in the said mortgage, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of —, the mortgagor therein named, nor to prevent such creditors from recovering any claims which they may have against such mortgagor.

SWORN, etc.

# AFFIDAVIT OF BONA FIDES

BY AGENT OF MORTGAGEE.

MORTGAGE TO SECURE INDORSER.

(R.S.O., c. 148, s. 8; Ont. 1903, c. 7, s. 30.)

ONTARIO; I, E.F., of the — of — in the county  
County of —, of —, —, make oath and say:

To Wit: 1. The foregoing [*or, annexed*] mortgage [*or, bill of sale by way of mortgage (p)*] was taken by me for and on behalf of C.D., the mortgagee therein named, and I am the agent duly authorized in writing of the said C.D., to take the said mortgage, and I am aware of the circumstances connected with the said mortgage, and I have a personal knowledge of the facts deposed to.

2. The paper writing attached to the said mortgage and marked "B" is [a true copy of] my authority to take the said mortgage.

3. The said mortgage fully sets forth the agreement entered into between —, the mortgagor, and the said C.D. the mort-

gagee, and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage.

4. The said mortgage was and is executed in good faith and for the express purpose of securing the mortgagee therein named against his indorsement for the said mortgagor of the promissory note for — dollars mentioned in the said mortgage, or any renewals of the said note, as set out in the said mortgage, and against the payment of the amount of the mortgagee's liability for the said mortgagor as therein set out, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of —, the mortgagor therein named, nor to prevent such creditors from recovering any claims which they may have against such mortgagor.

SWORN, etc.

#### AFFIDAVIT OF BONA FIDES.

MORTGAGE (q) BY A COMPANY TO SECURE BONDS OR DEBENTURES.

(R.S.O., c. 148, s. 23.)

ONTARIO; County of —, To Wit:	I, —, of the — of — in the county of —, —, (r) the mortgagee [or, one of the mortgagees] named in the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (s)] make oath and say:
--	---

1. I am a [trustee for the bondholders] of the — Company (t) named in the foregoing [or, annexed] mortgage [or as the case may be].

2. The said mortgage was executed in good faith and for the express purpose of securing the payment of the bonds [or,

(q) The statute (R.S.O., c. 148, s. 23) provides for a conveyance as well as a mortgage, should such be required, and the instrument may be filed within 30 days (Ont., 1904, c. 10, s. 36).

(r) If the mortgage is made to an incorporated company, the several affidavits and renewal statement may be made by the president, vice-president, manager, assistant manager, or any other officer of the company authorized for such purpose (R.S.O., c. 148, s. 23, s-s. 4).

(s) See note (h) on p. 252.

(t) Under R.S.O., c. 148, s. 23, this affidavit could only be made by a company incorporated by an Imperial Act or charter, or an Act or charter of the Dominion of Canada or of the Province of Ontario, but by the Ontario statute of 1904, c. 10, s. 36, it is made to apply to a mortgage by any incorporated company.

debentures] referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the said — Company, the mortgagors therein named, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them the said mortgagors.

SWORN, etc.

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### CHATTEL MORTGAGE

TO SECURE FUTURE ADVANCES OF GOODS.

(R.S.O., c. 148, s. 7.)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, herein after called the mortgagor, of the first part, and — of the — of — in the county of —, —, hereinafter called the mortgagee, of the second part.

WHEREAS the mortgagor is carrying on business at — as a —, and has applied to the mortgagee for advances of goods to be supplied to him upon the usual terms of credit, from time to time, for the term of — months from the date hereof, to enable him to enter into and carry on his business with such advances, the term of credit for any of such goods not to extend in any case beyond the — day of — 19—. [*Such date not to be more than one (u) year from the date of the mortgage.*]

AND WHEREAS the mortgagee, on the faith of the security given or to be given by these presents, has agreed to make such advances of goods on the usual terms of credit from time to time as the same may be required by the mortgagor in the usual and proper course of his said business for the term of — months from the date hereof, provided he shall not be bound to advance, in all, goods to the amount of more than — dollars in value, and provided the term of credit for any of such goods shall not in any case extend beyond the — day of — 19—. [*Such date not to be more than one (u) year from the date of the mortgage.*]

(u) In Manitoba, Alberta, Saskatchewan and Yukon Territory, this period is two years (R.S.M. c. 11, s. 6; Con. Ord. N.W.T. 1898, c. 43, s. 8; Con. Ord. Yukon, c. 39, s. 8).

NOW THEREFORE the mortgagor, for the consideration hereinafore recited, and in pursuance of the said agreement, doth hereby grant, bargain, sell and assign unto the mortgagee, his executors, administrators and assigns, all and singular the goods and chattels following, that is to say: [*Here insert a full and accurate description of each article intended to be mortgaged, so that it may be readily and easily known and distinguished.*] [*or, the goods and chattels particularly described in the schedule hereto annexed marked "A".*]

Provided that if the mortgagor, his executors or administrators, pay or cause to be paid to the mortgagee, his executors, administrators or assigns, all sums of money which shall become payable by the mortgagor to the mortgagee for or in respect of all goods which shall be supplied by the mortgagee to the mortgagor during the period of — from the date hereof, punctually when the said sums of money shall become payable according to the terms of credit, which shall not extend in any case beyond the — day of — 19—, then these presents shall be void.

And the mortgagor, for himself, his executors and administrators, shall and will warrant and forever defend, by these presents, all and singular the said goods and chattels unto the mortgagee, his executors, administrators and assigns, against him, the mortgagor, his executors and administrators, and against every other person whomsoever.

And the mortgagor, for himself, his executors and administrators, hereby covenants with the mortgagee, his executors, administrators and assigns, that he will pay or cause to be paid to the mortgagee all sums of money which shall become payable by him, the mortgagor, to the mortgagee for and in respect of all goods which shall be supplied by the mortgagee to the mortgagor during the said period of — months from the date hereof, in accordance with the said agreement, punctually when the said sums of money become payable according to the said terms of credit, which shall not extend in any case beyond the — day of — 19—.

Provided that should default occur in payment of the price of any of the goods so to be advanced, or if the mortgagor shall, without having [*continue as on fourth line from foot of page 245 to the end of the form, using such clauses as are desired*].

IN WITNESS, etc.

SIGNED, SEALED, etc.

[*For Affidavit of Execution, see p. 252.*]

[*For Affidavits of Bona Fides, see pp. 268 to 271.*]

# CHATTEL MORTGAGE

TO SECURE FUTURE ADVANCES OF MONEY.

(R.S.O., c. 148, s. 7.)

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, hereinafter called the mortgagor, of the first part, and — of the — of — in the county of —, —, hereinafter called the mortgagee, of the second part.

WHEREAS the mortgagor has applied to the mortgagee for future advances in money, and for the purpose of enabling the mortgagor to enter into and carry on business with such advances the mortgagee has this day consented and agreed, upon the agreement of the mortgagor to execute and deliver these presents as security to the mortgagee for the repayment thereof, to advance to the mortgagor the sum of — dollars in [three] sums of — dollars each, the first whereof is to be advanced to the mortgagor in [one] month from the date of these presents; the second whereof in [two] months from the date of these presents; and the third whereof in [three] months from the date of these presents; and in consideration thereof the mortgagor has this day agreed to execute these presents in order to secure the repayment of the said advances, it being understood and agreed between the parties hereto, however, that the time of repayment thereof shall not be for a longer period than one (*u*) year from the making of the agreement for such advances, which is the day of the date of these presents.

NOW THEREFORE the mortgagor, for the consideration hereinafore recited and in pursuance of the said agreement, doth hereby grant, bargain, sell and assign unto the mortgagee, his executors, administrators and assigns, all and singular the goods and chattels particularly described in the schedule hereto annexed marked "A."



Provided that if the mortgagor, his executors or administrators, pay or cause to be paid unto the mortgagee, his executors, administrators or assigns, the sum of — dollars at the end or expiration of [ten] months from the day of the date of these presents, with interest at the rate of — per cent (*v*) per annum from the date of the several advances so to be made as aforesaid on such advances, and do save harmless the mortgagee, his executors, administrators and assigns, of and from all loss and damage by reason of these presents, then these presents [*continue as on p. 244, line 22, to end of form, omitting any clauses not required.*]

And in consideration of the execution of these presents the mortgagee covenants for himself, his executors, administrators and assigns, with the mortgagor, his executors, administrators and assigns, that he, the mortgagee, his executors, administrators and assigns, will faithfully advance the said sum of — dollars to the mortgagor in the manner and at the times hereinbefore specified.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[*For Affidavit of Execution, see p. 252.*]

[*For Affidavits of Bona Fides, see pp. 268 to 271.*]

## AFFIDAVIT OF BONA FIDES

BY SOLE MORTGAGEE.

MORTGAGE TO SECURE FUTURE ADVANCES.

(R.S.O., c. 148, s. 7; Ont., 1903, c. 7, s. 30.)

ONTARIO:                    { I, C.D., of the — of — in the county  
County of —,                { of —, —, the mortgagee in the fore-  
To Wit:                    { going [*or, annexed*] mortgage [*or, bill of sale*  
by way of mortgage (*w*)] named, make oath and say:

1. The foregoing [*or, annexed*] mortgage truly sets forth the agreement entered into between myself and A.B., the mortgagor therein named, the parties thereto, and truly states the extent of the liability intended to be created by the said agreement and covered by such mortgage.

(*w*) See note (*d*) on p. 244.

2. The said mortgage was and is executed in good faith and for the express purpose of securing to me, the said mortgagee, repayment of the said advances which I have agreed to make to A.B., the said mortgagor, as set out in the said mortgage.

3. The said mortgage was not and is not executed for the purpose of securing the goods and chattels mentioned therein against the creditors of the said A.B., the mortgagor, nor to prevent such creditors from recovering any claims which they may have against the said mortgagor.

SWORN, etc.

# AFFIDAVIT OF BONA FIDES

BY ONE OF SEVERAL MORTGAGEES.

MORTGAGE TO SECURE FUTURE ADVANCES.

(R.S.O., c. 148, s. 7; Ont., 1903, c. 7, s. 30.)

ONTARIO;

County of —, ) I, —, of the — of — in the  
To Wit: ) county of —, —, make oath and say:

1. I am one of the mortgagees in the foregoing [*or*, annexed] mortgage [*or*, bill of sale by way of mortgage (*w*)] named, and I am aware of all the circumstances connected therewith.

2. The foregoing [*or*, annexed] mortgage truly sets forth the agreement entered into between the mortgagees in the said mortgage named and —, the said mortgagor therein named, and truly states the extent of the liability intended to be created by the said agreement and covered by such mortgage.

3. The said mortgage was and is executed in good faith and for the express purpose of securing to us, the mortgagees therein named, repayment of the said advances which we have agreed to make to —, the said mortgagor, as set out in the said mortgage.

4. The said mortgage was not and is not executed for the purpose of securing the goods and chattels mentioned therein against the creditors of the said —, the mortgagor, nor to prevent such creditors from recovering any claims which they may have against the said mortgagor.

SWORN, etc.

(*w*) See note (*h*) on p. 252.

## AFFIDAVIT OF BONA FIDES

BY AGENT OF MORTGAGEE.

MORTGAGE TO SECURE FUTURE ADVANCES.

(R.S.O., c. 148, s. 7; Ont., 1903, c. 7, s. 30.)

ONTARIO;

County of —, } I, E.F., of the — of — in the county  
To Wit: } of —, —, make oath and say:

1. The agreement set forth in the foregoing [*or*, annexed] mortgage [*or*, bill of sale by way of mortgage (*w*)] was entered into and the said mortgage was taken by me for, and on behalf of C.D., the mortgagee therein named, and I am the agent duly authorized in writing of the said C.D. to make such agreement and to take such mortgage, and I am aware of the circumstances connected with the said mortgage, and I have a personal knowledge of the facts deposed to (*x*).

2. The paper writing attached to the said mortgage, marked B, is [a true copy of] my authority to make such agreement and to take the said mortgage.

3. The said mortgage truly sets forth the agreement entered into between C.D., the mortgagee therein named, and A.B., the mortgagor therein named, and truly states the extent of the liability intended to be created by the said agreement and covered by such mortgage.

4. The said mortgage was executed in good faith and for the express purpose of securing to the said mortgagee repayment of his advances, which he has agreed to make as in the said mortgage set out, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the said A.B., the mortgagor, nor to prevent such creditors from recovering any claims which they may have against the said mortgagor.

SWORN, etc.

(*x*) See note (*k*) on p. 254

## AFFIDAVIT OF BONA FIDES

BY OFFICER OF COMPANY (*w*).

MORTGAGE TO SECURE FUTURE ADVANCES.

(R.S.O., c. 148, s. 7; Ont., 1903, c. 7, s. 30.)

ONTARIO;  
 County of —, } I, —, of the — of — in the county  
 To Wit: } of —, —, make oath and say:

1. The agreement set forth in the foregoing [*or*, annexed] mortgage [*or*, bill of sale by way of mortgage (*w*)] was entered into and the said mortgage was taken by me for and on behalf of the said — Company, the mortgagee therein named, and I am the [manager] of the said mortgagee company and its agent duly authorized in writing to make such agreement and to take the said mortgage, and I am aware of the circumstances connected with the said mortgage, and I have a personal knowledge of the facts deposed to (*x*).

2. The paper writing marked "B," attached to the said mortgage, is a true copy of my authority to make such agreement and to take the said mortgage.

3. The said mortgage truly sets forth the agreement entered into between the said — Company, the mortgagee, and —, the mortgagor therein named, and truly states the extent of the liability intended to be created by the said agreement and covered by such mortgage.

4. The said mortgage was executed in good faith, and for the express purpose of securing to the said mortgagee company repayment of its advances which it has agreed to make as in the said mortgage set out, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the said —, the mortgagor, nor to prevent such creditors from recovering any claims which they may have against the said mortgagor.

SWORN, etc.

(*y*) See note (*l*) on p. 254.

## ASSIGNMENT OF CHATTEL MORTGAGE.

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, herein-after called the assignor, of the first part, and — of the — of — in the county of —, —, hereinafter called the assignee, of the second part.

WHEREAS by a certain chattel mortgage dated the — day of — 19—, and duly filed in the office of the clerk of the [county] court of the [county] of —, one — [*name of the mortgagor in full*] mortgaged the goods and chattels therein mentioned unto the assignor, his executors, administrators and assigns, for securing the payment of — dollars and interest thereon at the rate of — per cent per annum in manner following, that is to say: [*Here set out the mode of payment as provided in the mortgage.*]

AND WHEREAS there is now owing upon the said mortgage the sum of — dollars and interest thereon at the rate aforesaid from the — day of — 19—.

AND WHEREAS the assignor has agreed to assign the said mortgage to the assignee.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the assignee to the assignor, the receipt whereof is hereby acknowledged, the assignor doth hereby assign and set over unto the assignee, his executors, administrators and assigns, all that the said hereinbefore in part recited mortgage, and also the said sum of — dollars and interest thereon now owing as aforesaid, together with all moneys that may hereafter become due or owing in respect of the said mortgage, and the full benefit of all powers and of all covenants and provisoes contained in the said mortgage. And the assignor doth hereby grant, bargain, sell and assign unto the assignee, his executors, administrators and assigns, all and singular the said goods and chattels therein mentioned, and hereinafter particularly mentioned and described [*or, described in the schedule endorsed hereon (or, hereto annexed) marked "A."*] that is to say [*here set out the list of the chattels as contained in the mortgage*]. And all the right, title, interest, property, claim and demand whatsoever of the assignor of, in, to and out of the same, and

every part thereof, subject to the proviso for redemption contained in the said mortgage.

And the assignor for himself, his executors and administrators, hereby covenants with the assignee, his executors, administrators and assigns, that the said sum of — dollars and interest thereon at the rate aforesaid from the — day of — 19—, is now justly due, owing and unpaid under and by virtue of the said mortgage, and that he has not done or permitted any act, matter or thing whereby the said mortgage has been released or discharged, or the said goods and chattels in any wise encumbered, or whereby the said goods and chattels, or any of them, have been or may be removed from the premises mentioned in the said mortgage.

[If so agreed, add, And that he, the assignor, his executors or administrators, will, upon the request and at the cost of the assignee, his executors, administrators or assigns, do, perform and execute every act necessary for further assuring the said mortgage and money, goods and chattels, and for enforcing the performance of the covenants and other matters contained in the said mortgage.]

IN WITNESS (z), etc.

SIGNED, SEALED, etc.

### AFFIDAVIT OF EXECUTION

#### OF ASSIGNMENT OF CHATTEL MORTGAGE.

(R.S.O., c. 148, s. 28.)

ONTARIO;

County of —, I, —, of the — of — in the county  
To Wit: } of —, —, make oath and say:

1. I was personally present and did see the foregoing [or, annexed] assignment of chattel mortgage duly signed, sealed and executed by —, [one of] the parties thereto.

2. I, this deponent, am a subscribing witness to the said assignment.

3. The name "—" [name of witness] set and subscribed as a witness to the execution thereof, is of the proper handwriting of me, this deponent.

(z) In *Seal v. Claridge*, 7 Q.B.D. 516, it was held, in effect, that the assignee himself cannot be the attesting witness.

4. The said assignment was executed at the — of —, in the county of — on the — day of — 19—.

SWORN, etc.

*[In Ontario no affidavit of bona fides by the assignee of a chattel mortgage is required.]*

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## NOTICE OF ASSIGNMENT

OF CHATTEL MORTGAGE.

NOTICE TO MORTGAGOR BY ASSIGNEE OF MORTGAGE.

To Mr. A. B.

TAKE NOTICE that I have this day become the purchaser and assignee for value of that certain chattel mortgage made and executed by you to C.D. of the — of —, in the county of —, —, whereby you secured to the said C.D. on the goods and chattels therein mentioned the sum of — dollars, payable as therein set out, and which said mortgage was duly registered in pursuance of the statute in that behalf on the — day of — 19—, as no. —, in the office of the clerk of the county court of the county of —.

And further take notice that all sums of money now unpaid, due or accruing due on account of the said mortgage are hereafter to be paid by you to me as such purchaser and assignee, and to no one else. And I am the person with whom all further dealings of any nature whatsoever are to be had of and concerning the said mortgage.

Dated at —, the — day of — 19—.

WITNESS. )

[Signed] E.F.

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## BY-LAW OF COMPANY

GIVING AUTHORITY TO AGENT TO TAKE AND RENEW  
CHATTEL MORTGAGES GENERALLY.

*[For form, see p. 221.]*

## AUTHORITY TO AGENT

## TO TAKE A CERTAIN CHATTEL MORTGAGE (a).

(R.S.O., c. 148, s. 2.)

KNOW ALL MEN by these presents that I, C.D., of the — of — in the county of —, —, do hereby constitute, authorize and appoint E.F., of the — of — in the county of —, —, as my true and lawful agent and attorney for me and in my name and on my behalf to take and receive from one A.B. of the — of — in the county of —, —, a mortgage [or, a bill of sale by way of mortgage (b)] securing to me upon the goods, chattels and effects of the said A.B. the sum of — dollars payable [here set out the terms of the payment of the mortgage].

And for all and every of the purposes aforesaid I hereby give and grant unto my said agent and attorney full power and authority to do, perform and execute all acts, deeds and matters necessary to be done and performed, and to take all proceedings necessary to be taken in and about the premises, I hereby ratifying, confirming and allowing, and agreeing to ratify, confirm and allow all and whatsoever my said agent and attorney shall lawfully do or cause to be done by virtue hereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

—

## AUTHORITY TO AGENT

## TO RENEW A CERTAIN CHATTEL MORTGAGE (e).

(R.S.O., c. 148, s. 18.)

KNOW ALL MEN by these presents that I, C.D., of the — of — in the county of —, —, do hereby constitute, authorize and appoint E.F., of the — of — in the county of —, —, as my true and lawful agent and attorney for me and in my name and on my behalf to renew a certain chattel mortgage to me from one A.B. of the — of — in the county of —, —, securing to me on certain goods and chattels the sum of

(a) A copy of this authority, or the authority itself, must be registered with the mortgage (R.S.O. c. 148, s. 2).

(b) See note (h) on p. 252.

(c) A copy of this authority, or the authority itself, must be filed with the renewal statement (R.S.O. c. 148, s. 18).



—dollars, which said mortgage bears date the — day of — 19—, and was filed in the office of the clerk of the [county] court of the [county] of — on the — day of — 19—, at the hour of — o'clock in the [fore] noon.

And for all and every of the purposes aforesaid I hereby give and grant unto my said agent and attorney full power and authority to do, perform and execute all acts, deeds, matters and things necessary to be done and performed, and all proceedings to take necessary to be taken in and about the premises, I hereby ratifying, confirming and allowing and agreeing to ratify, confirm and allow all and whatsoever my said agent and attorney shall lawfully do or cause to be done by virtue hereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### AUTHORITY TO AGENT

TO TAKE AND RENEW CHATTEL MORTGAGES GENERALLY (*d*).

(R.S.O., c. 148, ss. 2, 31.)

KNOW ALL MEN by these presents that I, C.D., of the — of — in the county of —, —, do hereby constitute, authorize and appoint E.F. of the — of — in the county of —, —, as my true and lawful agent and attorney for me and in my name and on my behalf to take and renew all and any chattel mortgages and bills of sale by way of mortgage necessary or expedient to be taken or renewed for me and on my behalf from any person or persons whomsoever as I myself could do.

And for all and every of the purposes aforesaid I hereby give and grant unto my said agent and attorney full power and authority to do, perform and execute all acts, deeds, matters and things necessary to be done and performed, and all proceedings to take necessary to be taken in and about the premises, I hereby ratifying, confirming and allowing and agreeing to ratify, confirm and allow all and whatsoever my said agent and attorney shall lawfully do or cause to be done by virtue thereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(*d*) A copy of this authority must be registered with the mortgage (R.S.O. c. 148, ss. 2, 18).

## AUTHORITY TO AGENT BY A COMPANY

TO TAKE AND RENEW, ETC., A CERTAIN CHATTEL MORTGAGE.

(R.S.O., c. 148, ss. 2, 18.)

KNOW ALL MEN by these presents that we, the — Company, do hereby constitute, authorize and appoint — of the — of — in the county of —, —, our true and lawful attorney and agent, for us and on our behalf, to take and receive from — of the township of — in the county of —, —, a certain chattel mortgage dated the — day of — 19—, for — dollars and interest thereon, payable as therein provided; and to renew the said mortgage when and as often as it may be necessary to do so, and to make such affidavits as may be required for the registration thereof and of any renewal or renewals thereof, and for all and every of the purposes aforesaid do hereby give and grant unto our said attorney and agent full and absolute power and authority to do, perform and execute all acts, deeds, matters and things necessary to be done in the premises [and also to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the premises] as fully and effectually to all intents and purposes as we the said company, could do; we hereby ratifying and agreeing to ratify and confirm all and whatsoever our said attorney shall lawfully do or cause to be done by virtue hereof.

AS WITNESS our corporate seal this — day of — 19—.

## AUTHORITY TO AGENT BY A COMPANY

TO TAKE AND RENEW CHATTEL MORTGAGES GENERALLY.

[For form, see p. 222.]

## STATEMENT ON RENEWAL

OF CHATTEL MORTGAGE (e).

(R.S.O., c. 148, ss. 18-21.)

STATEMENT exhibiting the interest of C.D. [mortgagee, or E.F., assignee of mortgage,] of the — of — in the county

(e) This statement, with the affidavit of the mortgagee or assignee (see pp. 278, 279), must be filed within one year from the day of the filing of the mortgage (R.S.O., c. 148, s. 18). In the case of a mortgage to secure debentures of an incorporated company, if a copy of the by-law authorizing the issue (duly certified and sealed) is registered with the mortgage it will not be necessary to renew the mortgage (ib. s. 3, s-s. 5).

of —, —, in the property mentioned in a chattel mortgage dated the — day of — 19—, made between A.B. of the — of —, —, of the one part, and C.D. of —, —, of the other part, and filed in the office of the clerk of the [county] court of the [county] of — on the — day of — 19—, [if renewed add, and renewed by statements filed on the — day of — 19—, and on the — day of — 19—, as the case may be] and of the amount due for principal and interest thereon, and of all payments made on account thereof.

The said C.D. is still the mortgagee of the said property, and has not assigned the said mortgage [or, the said E.F. is the assignee of the said mortgage by virtue of an assignment thereof from the said C.D. to him dated the — day of — 19—, and filed in the said office on the — day of — 19—, or as the case may be.]

No payments have been made on account of the said mortgage [or, the following payments, and no other, have been made on account of the said mortgage:

19—, January 1, cash received, \$—].

The amount still due for principal and interest on the said mortgage is the sum of — dollars, computed as follows: [here give the computation].

Dated at — this — day of — 19—.

[Signed by C.D. or, E.F. or, C.D. by his attorney G.H.,  
as the case may be.]

## AFFIDAVIT ON RENEWAL

### OF CHATTEL MORTGAGE,

BY MORTGAGEE, OR ASSIGNEE OF MORTGAGEE (f).

(R.S.O., c. 148, ss. 18, 19, 22; Ont. 1903, c. 7, s. 30.)

COUNTY of —, } I, —, of the — of — in the county  
                              } of —, —, the mortgagee [or, the assignee,  
To Wit:                } or, one of the mortgagees, or, assignees] of

(f) This affidavit may also be made by one of several mortgagees or assignees, and by any next of kin, executor or administrator of any deceased mortgagee, or by any assignee claiming by or through any mortgagee, or any next of kin, executor or administrator of any such assignee (R.S.O. c. 148, s. 22).

the mortgagee named in the chattel mortgage mentioned in the foregoing [*or, annexed*] statement, make oath and say:

1. The foregoing [*or, annexed*] statement is true.
  2. The chattel mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.
- SWORN, etc.

### AFFIDAVIT ON RENEWAL

OF CHATTEL MORTGAGE.

BY AGENT OF MORTGAGEE.

(R.S.O., c. 148, s. 22; Ont., 1903, c. 7, s. 30.)

COUNTY                    } I, —, of the — of — in the county of  
of —,                    } —, —, the agent of the mortgagee named  
To Wit: } in the chattel mortgage mentioned in the fore-  
going [*or, annexed*] statement, make oath and say:

1. The foregoing [*or, annexed*] statement is true.
2. The chattel mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.
3. I am aware of all the circumstances connected with this renewal of the said mortgage, and I have a personal knowledge of the facts deposed to (*g*).
4. I am the agent of the said mortgagee duly authorized in writing for the purpose of renewing the said chattel mortgage, a copy of my authority being hereto annexed.

SWORN, etc.

### CLERK'S CERTIFICATE

OF COPY OF CHATTEL MORTGAGE, WHEN GOODS REMOVED TO  
ANOTHER COUNTY.

(R.S.O., c. 148, s. 17.)

I, L.M., clerk of the county court of the county of —, do hereby certify that the annexed paper writing marked "A" is a true and correct copy of the original chattel mortgage from A.B. to C.D., with all endorsements thereon, bearing date the — day of — 19—, which was filed in the office of the said

(*g*) See note (*k*) on p. 254.

court at — o'clock in the [fore] noon on the — day of — 19—. [*If the mortgage has been renewed or assigned add, and that the paper writings marked "B" hereto attached are true and correct copies of the renewal (or, assignment, as the case may be) of the said mortgage filed as aforesaid with all endorsements thereon and of all affidavits, statements, documents and instruments relating thereto, which said paper writings marked "B" were respectively filed in the office of the said court as follows: (Here set out the dates of filing and the numbers and other specifications of each document)*] and that there are no other affidavits, documents, instruments or other papers relating to the said mortgage filed in the office of the said court.

Dated this — day of — 19—.

[*Seal of court.*]

[*Signed*]

L.M.

C.C.C.

#### CLERK'S CERTIFICATE

OF INSTRUMENTS BEING RECEIVED AND FILED, WHEN SUCH ARE  
REQUIRED FOR EVIDENCE IN COURT.

(R.S.O., c. 148, s. 24.)

I, L.M., clerk of the county court of the county of —, do hereby certify that the annexed paper writing marked "A" is a true and correct copy [of a copy] of the original chattel mortgage from A.B. to C.D. [and of the statement thereto belonging] and of all endorsements on the said original mortgage which bears date the — day of — 19—, and was filed in the office of the said court at — o'clock in the [fore] noon on — the — day of — 19—.

Dated this — day of — 19—.

[*Seal of court.*]

[*Signed.*]

L.M.

C.C.C.

#### DISTRESS WARRANT

TO SEIZE UNDER A CHATTEL MORTGAGE.

To —, my bailiff in this behalf.

SEIZE and take possession of the goods and chattels described in a certain chattel mortgage made between A.B. and C.D. dated

the — day of — 19—, [a copy of] which is hereunto annexed [and which was assigned to me by the said C.D. by assignment dated the — day of — 19—].

You may give up possession of the said goods and chattels on payment of the sum of — dollars and your own proper fees and charges, and for so doing this shall be your sufficient warrant and authority.

WITNESS my hand and seal (*h*) this — day of — 19—.

WITNESS:

### DISTRESS WARRANT

TO SEIZE AND SELL UNDER A CHATTEL MORTGAGE.

To —, my bailiff in this behalf.

You are hereby authorized and required to seize and take possession of all the goods and chattels mentioned in the mortgage [a copy whereof is] hereunto annexed, wherever the said goods and chattels may be found, and to sell and dispose thereof as provided by the said mortgage so as to realize the sum of — dollars now due and owing to me by virtue of the provisions therein contained, and the said sum, or so much thereof as may be realized, to pay over to me, my executors, administrators or assigns, and proceed thereupon to obtain possession of such goods and chattels and for the recovery of the said sum as the law directs and the said indenture permits, and for your so doing this shall be your sufficient warrant and authority.

WITNESS my hand and seal (*h*) this — day of — 19—.

WITNESS:

### DISCHARGE OF CHATTEL MORTGAGE.

BY ORIGINAL MORTGAGEE.

(R.S.O., c. 148, s. 25.)

To the clerk of the [county] court of the [county] of —.

I, C.D., of the — of — in the county of —, —, do certify that A.B., [or, G.H.] of the — of — in the county of —, —, has satisfied all money due on, or to grow due on, a certain chattel mortgage made by A.B. to me, which mortgage

(*h*) A seal is not necessary, but is commonly used.

bears date the — day of — 19—, and was registered [*or, if mortgage has been renewed, was re-registered*] in the office of the clerk of the [county] court of the [county] of — on — the day of — 19—, as no. —.

That such mortgage has not been assigned by me and that I am the person entitled by law to receive the money, and that such mortgage is therefore discharged.

WITNESS my hand this — day of — 19—.

[Signature of witness, stating residence and occupation.]	}	[Signature of mortgagee.]
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### AFFIDAVIT OF EXECUTION

#### OF DISCHARGE OF CHATTEL MORTGAGE.

(R.S.O., c. 148, s. 26.)

COUNTY of —, ) I, —, of the — of — in the county  
To Wit: ) of —, —, make oath and say:

1. I was personally present and did see the within [*or, annexed*] certificate of discharge of chattel mortgage duly signed and executed by —, one of the parties thereto.

2. The said certificate was so executed at the — of — in the county of —.

3. I know the said party.

4. I am a subscribing witness to the said certificate.

SWORN, etc.

### DISCHARGE OF CHATTEL MORTGAGE

#### BY ASSIGNEE OF THE MORTGAGEE.

(R.S.O., c. 148, s. 28.)

To the clerk of the county court of the county of —.

I, E.F., of the — of — in the county of —, —, do hereby certify that [A.B.] of the — of — in the county of —, —, has satisfied all money due on, or to grow due on a certain chattel mortgage made by him, the said A.B. [*or, made by one A.B.*] to one C.D., of —, which mortgage bears date the — day of — 19—, and was registered [*or in case the mortgage has been renewed, was re-registered*] in the office

of the clerk of the county court of the county of — on the — day of — 19—, as no. —, and which mortgage was, by assignment thereof bearing date the — day of — 19—, duly assigned by the said C.D. to me, which said assignment was duly registered in the office of the clerk of the said court on the — day of — 19—, as no. —.

That such said mortgage has not been assigned by me and that I am the person entitled by law to receive the money, and that such mortgage is therefore discharged.

WITNESS my hand this — day of — 19—.

[Signature of witness, stating residence and occupation.]	}	[Signature of assignee.]
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[For Affidavit of Execution, see p. 282.]

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# COMPANY.

## SUBSCRIPTION AGREEMENT

### BEFORE ORGANIZATION OF COMPANY.

WHEREAS the organization of a company is contemplated under [chapter 15 of the statutes of 1902 of Canada, intituled "The Companies Act, 1902"] to be known as "The —— Company," or by such other name as may be selected, with a capital stock of not less than —— dollars for the purpose of [*here set out particulars sufficiently describing the intended business*], and it is desired by the undersigned to become a shareholder in the said company.

NOW THEREFORE A.B., the undersigned, hereby promises and agrees to and with C.D. [*name of promoter or person organizing the corporation*] of ——, in consideration of the promises of the said C.D. hereinafter stated, that he will pay to the said C.D. or to any person or corporation to whom he may assign this agreement, on demand, the sum of —— dollars, being the subscription price of —— shares of the capital stock of the said company, or such part thereof as may be called for. The stock thus paid for to be delivered at the earliest possible moment after the organization of the company, and meanwhile proper receipts or scrip to be issued to the undersigned.

This agreement is conditional upon the procuring by the said C.D. of other bona fide subscriptions to the capital stock of the said company, aggregating in all not less than —— dollars.

The said C.D. on his part, in consideration of the foregoing, promises to use his best endeavors to obtain such amount of subscriptions and his best efforts to perfect the organization of the said company.

WITNESS our hands and seals this —— day of —— 19——.

WITNESS.

## COMMISSION NOTE.

AGENT TO FORM A COMPANY.

Dated ——— 19—.

SIR, In the event of your forming a company under ["The Companies Act"] which shall, before the ——— day of ——— next, enter into a binding agreement with me for the purchase of my [letters patent dated the ——— day of ——— 19—, for improvement in the manufacture of ———], at a price not being less than ——— dollars, of which at least [one third] shall be payable in cash and the residue may at the option of such company be satisfied by the allotment of fully paid up shares of [common] stock I agree to pay you a commission of ——— per cent on the purchase price payable to me.

Your commission shall be payable in cash and fully paid up shares in the same proportions as the purchase price is paid to me, and your commission shall cover all the preliminary expenses of the company down to the date of its incorporation, including the fees and expenses attendant thereon.

Yours, etc.

To [promoter],

[Signature of owner of patent.]

## COMMISSION NOTE.

AGENT TO FIND A PURCHASER WHO WILL FORM A COMPANY.

Date ———.

SIR, In the event of your finding a purchaser before the day of ——— next who will undertake to form a company for the acquisition of the [gold mining claims] in ———, (short particulars of which are set out below,) over which I have an option of purchase for the sum of ——— dollars until the ——— day of ——— next, I agree to pay you by way of commission for your services ——— per cent on the excess of the purchase price payable to me over the said sum of ——— dollars payable by me. Such commission is to be satisfied by fully paid up shares of the [common] stock of the company to be formed, and will only

become payable in the event of the property being duly acquired by the company.

Yours, etc.

[Signature of holder of option.]

To [commission agent].

#### PARTICULARS OF PROPERTY.

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#### AGREEMENT FOR SALE OF PROPERTY

TO A PROMOTER, WHO IS TO FORM A COMPANY.

AGREEMENT made the — day of — 19—, between [vendor] of —, hereinafter called the vendor, of the one part and [promoter] of —, hereinafter called the promoter, of the other part.

WHEREBY IT IS AGREED as follows:

1. The vendor shall sell and the promoter shall purchase the —, now belonging to the vendor, for the sum of — dollars to be paid as hereinafter mentioned.

[2. The vendor shall, at his own expense, within — days from the date hereof deliver to the promoter an abstract of title to the said [freehold] premises commencing with an indenture of — dated the — day of — 19—, and made between [names of parties]. All requisitions and objections (if any) shall be left with the vendor or his solicitors, Messrs. —, within — days after the delivery of such abstract, and in default of any requisitions or objections being so made, or subject thereto (if any), the promoter shall be deemed to have accepted the title (a).]

3. Of the said sum of — dollars the promoter has already paid to the vendor — dollars by way of deposit (the receipt whereof is hereby acknowledged) and of the residue — dollars shall be paid in cash and the remaining — dollars shall be satisfied by the allotment to the vendor or his nominees of fully paid up shares of that nominal value in the capital of the company hereinafter mentioned.

4. The promoter shall forthwith procure the formation and incorporation under [The Companies Act] of a company

(a) See special clauses on p. 55 as to requisitions on title.

with a nominal capital of — dollars, divided into — shares of — dollars each, and having amongst its objects the acquisition and working of the said — hereby agreed to be sold.

5. The memorandum and articles of the company shall be prepared by the promoter, who shall have absolute discretion as to the contents thereof, and the promoter may also nominate such persons as directors as he thinks fit.

6. The promoter shall procure the allotment by the company to the vendor or his nominees of — fully paid up shares of — dollars each in the capital stock of the company.

7. The purchase shall be completed on the — day of — 19—, at the offices of Messrs. —, at —, at which time and place the promoter shall pay to the vendor the said balance of — dollars in cash and shall hand over to the vendor certificates for [or properly executed transfers of] the said shares.

8. In the event of the promoter being unable or unwilling to complete on the said — day of — the vendor may at any time thereafter by notice in writing to the promoter rescind this agreement, and in that event the said deposit of — dollars shall be forfeited to the vendor by way of liquidated damages.

AS WITNESS, etc.

[Signatures of both parties.]

## PARTNERSHIP AGREEMENT

BETWEEN OWNER OF PROPERTY AND PROMOTER.

AN AGREEMENT made the — day of — 19—, between — [owner of property] of —, of the one part, and — [promoter] of —, of the other part.

WHEREAS the said [owner] is the owner of —.

AND WHEREAS the said [owner] has invited the said [promoter] to assist him in working [or, developing] the said — which the said [promoter] has agreed to do upon the terms hereinafter mentioned.

NOW IT IS HEREBY AGREED as follows:

1. A partnership for the term of — months from the — day of — 19—, is hereby constituted between the said

[owner] and the said [promoter] under the firm name of — for the purpose of working [or, developing] the said — and disposing of or otherwise dealing with the same in such manner as may be mutually agreed upon between the said partners; provided that either partner may at any time after the — day of — 19—, determine this partnership by [one month's] notice in writing to the other partner to be left at the office of the partnership.

2. The management of the partnership business shall be conducted by both partners, who shall give such time to the business as may be necessary.

3. The capital of the partnership shall consist of:

(i) The said —, which shall be assured to the partnership by the said [owner] in such manner as the said [promoter] shall direct, and until such assurance is effected the same shall be held by the said [owner] in trust for the partnership.

(ii) The sum of — dollars which shall be brought in by the said [promoter] and shall forthwith be paid to an account to be opened at the — Bank in the name of the partnership.

(iii) Such further sums as shall from time to time be advanced to the partnership by either partner with the consent of the other partner.

4. All cheques to be drawn on the said partnership account at the — Bank or on any other banking account of the partnership shall be signed by both the said [owner] and the said [promoter]. All cheques and moneys received on account of the firm shall forthwith be paid into the firm's banking account.

[5. (b) The profits of the partnership, which shall be ascertained at the end of every [three] months, shall be applied and divided as follows:

(i) In the payment of interest at the rate of — per cent per annum on any sums advanced to the partnership under sub-clause (iii) of clause 3 hereof.

(ii) Of the residue [one third part] shall be paid to the said [owner] and [two third parts] to the said [promoter].]

(b) This clause will not be wanted unless the partnership is intended to be of some duration; as, if the sale of the whole undertaking to a company is to be effected at once, all the profits will be divided on the sale, and the partnership dissolved.

6. Upon the dissolution of the partnership the property and assets of the partnership shall be realized, and the proceeds after satisfying all the debts and liabilities of the firm shall be applied as follows:

(i) In the repayment of any sums advanced to the partnership by either partner under sub-clause (iii) of clause 3 hereof [ (c) together with any unpaid interest thereon, at the rate aforesaid].

(ii) Of the residue [one third] shall be paid to the said [owner] his executors or administrators and the remaining [two-thirds] to the said [promoter], his executors or administrators.

7. In the event of the partnership being dissolved by the death of either partner the property and assets of the partnership shall be realized by and at the discretion of the surviving partner; provided that such realization shall be completed within one year after such death.

8. Proper books of account of all the receipts and payments on behalf of the partnership shall be kept, and a [monthly] account shall be prepared showing the assets and liabilities of the partnership and also the state of account as between each partner and the firm.

9 Any question or difference which arises in connection with this agreement or the subject-matter thereof shall be referred to two arbitrators, one to be appointed by each party to the dispute in accordance with the provisions of The Arbitration Act.

AS WITNESS, etc.

[Signatures of both parties.]

### SYNDICATE AGREEMENT

FOR PURCHASE AND RE-SALE OF PROPERTY.

(Heads of agreement.)

A syndicate is hereby formed for the purpose of acquiring — [here describe property] and of disposing of the same at a profit. The capital of the syndicate shall be — dollars, and

(c) These words in brackets will not be applicable if clause 5 is omitted, see note (b).

shall be considered to be divided into — shares of — dollars each. The holders for the time being of the shares shall be members of the syndicate. Each of the subscribers shall be entitled to the number of shares set opposite his signature. The shares are to be transferable but not divisible. A transfer must be registered.

2. In entering into the contract dated the — day of — 19—, for the acquisition of the said property, A., one of the subscribers hereto, shall be deemed to have been acting on behalf of the syndicate, and the syndicate shall forthwith repay him the deposit, and shall indemnify him against his liabilities under the contract.

3. A. and B. shall be managers of the syndicate.

4. — dollars per share shall be paid to the managers forthwith, and they shall from time to time make calls on the members in proportion to their shares, but no member shall be liable to pay more than the amount of his shares.

5. All moneys paid to the managers in respect of calls or otherwise shall be paid into a chartered bank and shall be applied by the managers for the purposes of the syndicate.

6. The managers shall have the entire control of the affairs of the syndicate and may conduct them in such manner as they think best.

7. It is expressly declared that the managers, if they see fit,  
(a) may sell the property to a person, or firm or company.  
(b) may form and float, or procure the formation and floating, of a company to purchase the property.  
(c) may fix the price and agree to accept any part of it in fully paid up shares, debentures or otherwise.  
(d) may operate the property until disposed of.

8. The managers may convene meetings of the syndicate to deliberate and decide on any of the affairs of the syndicate; every share to confer one vote; the majority of votes to decide; votes may be given in person or by proxy; three days' notice of all meetings shall be given.

9. The consideration for the sale or disposition of the property shall be applied, firstly, in paying all debts and liabili-

ties of the syndicate; secondly, in repaying any capital contributed by the members in respect of their shares; thirdly, the surplus shall be divided among the members in proportion to their shares. And for the purposes of this clause the managers may convert into money any shares, debentures or other specific assets, and may divide any such assets in specie, and make such other arrangements for adjusting the rights of the members as they think fit.

10. Notices to each subscriber may be given by post, addressed to him at his address below mentioned. Notice so given to be deemed served twelve hours after posting.

Dated the — day of — 19—.

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#### APPLICATION FOR STOCK.

THE — COMPANY, [LIMITED.]

Incorporated by Letters Patent, etc. [*or as the case may be.*]

Authorized capital, \$ [1,000,000.00.]

Divided into [10,000] shares, par value of \$ [100] each.

Preference stock [7 per cent cumulative] [4,000] shares.

Common stock [6,000] shares.

[3,000] shares of the [cumulative 7 ] per cent preference [*or, common*] stock [dividend payable quarterly] are now offered for subscription at par.

To the Directors of The — Company, [Limited.]

Enclosed find \$ — as deposit of 10 per cent on — [cumulative preference] shares of the stock of your company. I hereby request you to allot me that number of shares and I agree to accept the same or any smaller number that may be allotted to me, and to pay [15] per cent additional on allotment and the balance as may be called by the directors [*or as may be required.*] Failure to pay any instalment or call when due will render the amount already paid liable to forfeiture.

#### *Bonus of common stock.*

It is agreed that this subscription, when completed, will entitle me to receive — fully paid up and non-assessable



shares of the common stock of the company, additional, as a bonus, *or*,

It is part of this application that on payment being made in full for this stock there shall be transferred to me — fully paid up and non-assessable shares of common stock for every — shares of preference stock allotted to me.

*Power of attorney to accept shares, etc.*

I hereby appoint — [or, the secretary of the company] my true and lawful attorney for me and in my name and behalf to accept all such transfers as may be made to me of the said — shares or any part thereof, in the books of the company, and to do all lawful acts requisite for effecting the premises and to register me as the holder of the said shares.

Dated at — the — day of — 19—.

WITNESS:

Signature .....  
Name in full .....  
Address in full .....  
Profession or business .....

Cheques and drafts to be made payable to —, and sent with this application to —.

#### RECEIPT BY COMPANY.

Received from — the sum of — dollars, being the amount of deposit of [ten] per cent on application for — shares of [7 per cent cumulative preference] stock of \$100 each in The — Company, Limited.

Dated at — this — day of — 19—.

[To be signed by the company or the person authorized to receive the deposit.]

#### UNDERWRITING AGREEMENT

IN RESPECT OF SHARES OF PREFERENCE STOCK.

The — Company, [To be incorporated.]

Capital stock [\$1,000,000] divided into shares of [\$100] each.  
Preference stock [cumulative] [\$400,000].  
Common stock [\$600,000].

To the — Company [or, To —, *company's broker.*]

In consideration of your agreeing to pay me a commission of [five] per cent in cash, together with a 20 per cent bonus of common stock (in addition to the [25] per cent bonus which the issue of the stock to the public carries, which [25] per cent is to be surrendered by the underwriter in proportion to the public subscription) on the par value of shares in the above named company underwritten by me, I hereby agree to underwrite \$—— of the [seven] per cent preference stock of the said company, of which — shares amounting to — dollars are now offered to the public.

[If it is desired that any part of the above amount shall be allotted firm, add, I desire to have — shares allotted to me firm, in part relief of my underwriting, irrespective of the public subscription, but the acceptance of this contract shall not imply a right to such allotment.]

If, on the day appointed for closing the subscription list to the public, the [\$300,000] of stock of the said company be subscribed and applied for by parties whom the directors may consider responsible, then I am not to be allotted any shares hereunder. If such [\$300,000] be then only partially subscribed for, I am to be allotted my proportion of the deficiency (i.e. pro rata with the other persons who have signed similar underwriting letters in this form), and I agree to pay the amount due on allotment thereof and the subsequent payments as they become due.

It is further understood that this underwriting letter is irrevocable, provided the prospectus of the said company (with such alterations or modifications as you may think expedient, except that the capital of the said company shall not be altered) is advertised on or before the — day of — 19—, failing which this underwriting letter shall become null and void, and no liability shall attach to anyone.

I also hereby request and authorize you if necessary to sign my name to an application for all or any portion of the shares hereby underwritten.

Dated at — the — day of — 19—.

[Name.]

[Address.]

## ACCEPTANCE.

I [or, we] beg to acknowledge the receipt of the above letter, and accept your underwriting to the extent of — dollars, and agree to the terms thereof.

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## POOLING AGREEMENT.

## BETWEEN SHAREHOLDERS OF A COMPANY.

WE, the undersigned, shareholders of the — Company, believing it to be in our interest as such shareholders to pool our stock with the — Trust Company, as trustee for the time and on the terms hereinafter mentioned, do hereby respectively agree each with the other, and with the said trust company, as follows:

1. We will respectively transfer or cause to be transferred to the trust company, as trustee, all our respective shares in the capital stock of the said — company, to be held by the trust company until the — day of — 19—, subject to the provisions and terms hereinafter mentioned.

2. Any of the undersigned who are now directors of the — company may retain the necessary qualification shares as directors, and any of the undersigned who may hereafter be appointed directors of the said company shall be entitled to receive from the trust company a transfer of the necessary qualification shares, but all such qualification shares shall be held unsold and undisposed of until the expiration of the time above limited.

3. Any of the undersigned wishing to dispose of the whole or any part of his shares to others of the undersigned shall be at liberty to do so, and upon notice to the trust company of such disposition the trust company shall hold the shares so disposed of for the proper person or persons in that behalf in lieu of the person so disposing thereof.

4. At all meetings of the shareholders of the — company the trust company or some person or persons agreed upon by the undersigned shall vote upon the shares transferred to it by the undersigned respectively in accordance with the directions (if any) of the undersigned, or if any of the undersigned have dis-

posed of any of their shares as mentioned in paragraph 3 hereof, then in accordance with the directions (if any) of the proper person in that behalf.

5. Upon the expiration of the period mentioned in paragraph 1 hereof, the trust company shall transfer to the undersigned respectively, or to the persons entitled in that behalf, the respective shares transferred to or held by the trust company under the terms of this agreement.

Dated at — the — day of — 19—.

WITNESS:

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### VOTING TRUST AGREEMENT

BETWEEN SHAREHOLDERS OF A COMPANY.

THIS AGREEMENT made the — day of — 19—, between the undersigned shareholders of "The — Company," hereinafter called the subscribers, of the first part, and — and —, hereinafter called the trustees, of the second part.

WITNESSETH that for a valuable consideration, the receipt whereof is hereby acknowledged, and the mutual covenants and agreements hereinafter contained, the subscribers hereby assign and transfer unto the trustees the number of shares of stock of "The — Company" incorporated under [*name of Act under which charter granted*], set opposite their respective names, to be held by the trustees until the — day of — 19—, in trust, however, for the respective subscribers, their personal representatives and assigns, and subject to the following terms and conditions:

1. The trustees shall jointly vote all of the said shares so held by them at any and all meetings of the shareholders, and at all elections of directors during such period as though the trustees were the absolute owners of the said shares.

2. The vote of the trustees upon the said shares at every meeting of the shareholders shall be the vote of a majority of the trustees in office.

3. In case of the death or resignation of any of the trustees, the surviving trustees may elect his successor, who shall have and exercise hereunder the same powers and duties as his predecessor in office.

4. The trustees shall prepare and deliver to each of the subscribers a suitable certificate signed by such of their number as they shall designate, showing the number of shares held by the trustees for his benefit hereunder, which certificate shall be divisible and transferable, but only upon books which shall be kept by the trustees and upon surrender of such certificates and payment of a proper clerical fee. The trustees may appoint a transfer agent for the trustee certificates and fix a proper compensation for its services. The trustees may at all times treat the record owner of the trustee certificates as the owner thereof.

5. The trustees shall receive the dividends that may be declared from time to time upon the shares so transferred to them by the subscribers, and shall, without charge or compensation, immediately pay out the same to the holders of the trustee certificates as their respective interests may from time to time appear.

6. On the — day of — 19—, the trustees shall assign and transfer to the then holders of the trustee certificates the number of shares to which each holder thereof shall be entitled upon surrender of the trustee certificates.

7. The trustees accept the trust hereby created and covenant and agree that they will at all times vote the said shares and exercise their duties hereunder in such manner as they shall consider to be for the best interests of the shareholders of the — Company and will permit any shareholder of the — Company to become a subscriber hereto.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### APPOINTMENT OF GENERAL MANAGER OF A COMPANY.

MEMORANDUM OF AGREEMENT made the — day of — 19—, between The — Company, hereinafter called the company, of the first part, and — of —, of the second part.

WHEREBY IT IS AGREED as follows:

1. The said — shall be general manager of the company, and as such general manager shall do and perform the duties

and exercise the powers which from time to time may be assigned to or vested in him by the directors of the company.

2. The said — shall hold the said office, subject as hereinafter provided, for the term of — years from the date hereof.

3. The said —, unless prevented by ill health, shall, during the said term, devote the whole of his time, attention and ability to the business of the company, and shall obey the orders from time to time of the board of directors and in all respects conform to and comply with the directions and regulations given and made by the board, and shall well and faithfully serve the company and use his utmost endeavours to promote the interests thereof.

4. There shall be paid to the said —, as general manager, salary as follows, viz.: the sum of — dollars for the first year, the sum of — for the second year, and the sum of — for each succeeding year.

5. The said salary shall commence from the date hereof, and shall be paid upon the first business day of each and every month.

6. The said — shall be at liberty to resign the said office at any time by giving the company [three] calendar months' notice in writing of his desire so to do.

IN WITNESS, etc.

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## APPOINTMENT OF SECRETARY

### OF A COMPANY.

THIS AGREEMENT made the — day of — 19—, between The — Company, hereinafter called the company, of the first part, and — of —, of the second part.

WHEREAS the directors of the company are, by the by-laws, empowered to appoint a secretary of the company either for a fixed term or otherwise as therein mentioned, and to fix and determine his remuneration.

NOW IT IS AGREED as follows:

1. The said — shall be secretary of the company for the term of — years computed from the date hereof.

2. There shall be paid to —, as secretary as aforesaid, a salary at the rate of — dollars per annum. Such salary shall commence from the date hereof and be payable monthly on the first business day of every month.

3. The said —, unless prevented by ill health, shall during the said term devote the whole of his time, attention and ability to the business of the company, and shall obey the orders from time to time of the board of directors of the company and in all respects conform to and comply with the directions and regulations given and made by the board, and shall well and faithfully serve the company and use his utmost endeavours to promote the interests thereof.

4. The said — shall, during his tenure of the said office, be entitled to leave of absence for a period in each year not exceeding — weeks, and, unless otherwise arranged between the board and the said —, such leave of absence shall be granted in each year as follows, viz.: from the — day of — to the — day of —. The aforesaid salary of the said — shall continue notwithstanding such leave of absence.

5. Either of the parties hereto may at any time after the — day of — 19—, determine this agreement by giving not less than [two] calendar months' notice in writing, and upon the expiration of the period specified in such notice the said — shall cease to be secretary of the company.

IN WITNESS, etc.

#### BY-LAWS.

##### GENERAL PRECEDENTS FOR A COMPANY (*d*).

WHEREAS the shareholders of The — Company deem it expedient that by-laws for regulating the affairs of the company should be made.

NOW THEREFORE be it enacted, and it is hereby enacted, as follows:

(*d*) The by-laws here given are general working precedents for a company, but they contain also provisions for special conditions, and provide against difficulties which frequently arise but are not provided for in the forms of by-laws ordinarily found, e. g. by-laws, 5, 12, 15, 23, 24.

*Head office.*

1. The head office of the company shall be at the [town] of — in the province of —, at such place therein as the directors from time to time determine by by-law.

*Seal.*

2. The seal, an impression of which is stamped on the margin hereof, shall be the seal of the company.

*Annual meeting.*

3. The annual general meeting of the shareholders of the company shall be held at such time in the month of — and at such place as the directors determine.

*Special general meetings.*

4. The directors may, whenever they think proper, and they shall upon requisition in writing by shareholders holding in the aggregate — shares of the issued capital stock of the company, call a special general meeting of the shareholders.

5. A meeting of the shareholders may be held at any time and at any place without the notice required by by-law 6 if all the shareholders of the company are present thereat or represented thereat by proxy, or if the absent shareholders signify their assent in writing to such meeting and their inability to attend, and at such meeting any business may be transacted which the company in general or special meeting might transact, but the accidental omission to give to any shareholder the notice above mentioned shall not invalidate any resolution passed at any such meeting.

*Notice of meetings.*

6. No public notice or advertisement of the annual or any other meeting of the shareholders shall be required, but notice of the time and place of holding such meeting shall be mailed to each shareholder to his last known post office address and deposited in the post office at — at least ten days before the holding of such meeting.

*Quorum.*

7. The quorum for the transaction of business in meetings of the shareholders shall consist of not less than — share-



holders present or represented by proxy and holding in all not less than — per cent of the capital stock of the company.

*Proxies.*

8. No person shall act as proxy who is not a shareholder and qualified to vote, [nor, if any member objects thereto, unless the instrument appointing him be deposited at the head office of the Company at least twenty-four hours before the time fixed for holding the meeting at which he proposes to vote].

*Directors.*

9. The board of directors shall consist of — persons, each of whom shall be the holder [in his own right] of — shares in the company.

*Election of directors.*

10. The election of directors shall take place yearly at the annual general meeting of the company, and all the directors then in office shall retire, but if otherwise qualified shall be eligible for re-election.

*Vacancies among directors.*

11. Vacancies occurring in the board of directors between annual meetings may be filled by the remaining directors from the qualified shareholders of the company.

*Directors meetings.*

12. Directors meetings may be called by the president or the vice-president or any two directors to meet at the office of the company, or at any other convenient place; notice of such meetings shall be delivered or mailed to each director not less than — days before the meeting is to take place, but meetings may be held from time to time, without formal notice, at any place, if all the directors are present, or if those absent have signified their assent to such meeting and their inability to attend.

*Quorum of directors.*

13. — directors shall form a quorum for the transaction of business.

*Special committees of directors.*

14. The directors may delegate any of their powers to special committees consisting of such member or members of

their body as they think fit. Any committee so formed shall, in the exercise of such powers so delegated, conform to any regulations which may from time to time be imposed on it by the directors, and shall report every act or thing done in exercise of such powers to the earliest possible meeting of the directors next after the same shall have been done (*e*).

*Acts of directors.*

15. All acts done by meetings of directors, or by a committee of directors, or by any person acting as a director, shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to be a director.

*Salaries and contracts of directors.*

16. Any director may, notwithstanding any rule of law or equity to the contrary, be appointed to any office under the directors, with or without remuneration, but he shall not vote upon any question connected with the appointment or remuneration of such office. No director shall be liable or accountable for any profits made from or in connection with any contract, lawfully made by him, or a firm, company or syndicate in which he may be a partner, shareholder or otherwise interested with the company, or from or in connection with any office held by him under the company (*f*).

*Officers of company.*

17. The officers of the company shall consist of a president, a vice-president, and a secretary-treasurer and such other officers as the board of directors may determine, and the directors shall, from time to time, elect from among themselves the president of the company, and shall also appoint and may remove at pleasure all other officers.

*Power to make contracts, notes, etc.*

18. The president and vice-president, or either of them,

(*e*) The resolution of directors appointing any such special committee must fix its quorum; otherwise it cannot act unless the whole committee is present.

(*f*) *Re Mimico Sewer Pipe Co.*, 26 O.R. 289.

may [when thereto authorized by the board] make contracts and engagements, and draw, accept or endorse bills of exchange, promissory notes and cheques on behalf of the company (g).

*Banking.*

19. A bank account shall be kept in the name of the company at a chartered bank to be selected by the directors [and all sums over — dollars shall be paid by cheque, which shall be signed by the president or vice-president, or by such director or directors as the board may determine].

*Secretary's duties.*

20. The secretary shall keep the books of the company according to law, and shall perform such other duties as the terms of his engagement call for, or as the board of directors may require of him.

*Stock transfer book.*

21. A stock transfer book shall be provided in such form as the board of directors approves of, and all transfers of stock in the capital of the company shall be made in such book and shall be signed by the transferor, or by his attorney duly appointed in writing, and the transfer shall be accepted by the transferee, or his attorney duly appointed in writing. Stock certificates shall be in such form as the directors approve and shall be under the seal of the company and be signed by the president or vice-president and the secretary.

*Transfer of stock.*

22. No shareholder shall be allowed to transfer his stock until it is fully paid up, unless by authority of the board.

*Distribution of dividends.*

23. When profits of the company are available for dividends they shall be divided among the members of the company in proportion to the amounts paid up on the shares held by them respectively. Provided that where capital is paid up in advance of calls upon the footing that such capital shall carry

(g) The by-law may provide, if desired, that contracts, notes, cheques, etc. shall be signed by the president (or, in the absence of the president, by the vice-president) and countersigned by the secretary or some other officer.

interest, it shall not, whilst carrying interest, confer a right to participate in profits.

*Application of dividends.*

24. When dividends are payable to any member the directors may retain and apply them in or towards satisfaction of all such sums of money as may be due by such member to the company on any account whatsoever.

*Period of fiscal year.*

25. The fiscal year of the company shall terminate on the — day of — in each year.

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BY-LAW TO INCREASE CAPITAL STOCK.

BY-LAW to increase the capital stock of The — Company.

WHEREAS the capital stock of The — Company is — dollars, divided into — shares of — dollars each, of which — shares have been subscribed for and — per cent paid in thereon. [*The amount subscribed and paid in must be at least the amount required by law.*]

AND WHEREAS it is expedient that the capital stock should be increased to the sum of — dollars.

NOW THEREFORE The — Company enacts as follows, namely:

1. That the capital stock of the company be increased from the sum of — dollars to the sum of — dollars by the issue of — shares of new stock of the par value of — dollars each.

2. That the new shares be issued and allotted in such manner and proportion as the directors of the company may deem proper for the benefit of the company.

That this by-law be submitted forthwith for the sanction of the shareholders at a special general meeting to be called for considering the said by-law.

Passed this — day of — 19—.

AS WITNESS the corporate seal of the company.

## BY-LAW TO DECREASE CAPITAL STOCK.

BY-LAW to decrease the capital stock of The — Company.

WHEREAS the capital stock of The — Company is [one million] dollars, divided into [ten thousand] shares of [one hundred] dollars each, of which — shares have been subscribed for and — per cent paid in thereon.

AND WHEREAS it is expedient that the said capital stock should be decreased to the sum of [five hundred thousand] dollars.

NOW THEREFORE The — Company enacts as follows, namely:

1. That the capital stock of the company be reduced from \$1,000,000, divided into 10,000 shares of \$100 each, to \$500,000, divided into 10,000 shares of \$50 each, the reduction to be effected by cancelling capital which is not represented by available assets [*or as the case may be*] to the extent of \$50 per share upon each of the shares which have been issued and now outstanding, and by reducing the nominal amount of all shares of the company's capital from \$100 to \$50 a share [*or as may be desired*].

2. That the allotment of such shares remain as at present; [*or*, That the allotment of the said shares be made by the directors as follows: That the 10,000 shares of the value of \$100 each at present forming the capital stock of the company shall be redivided [*or*, subdivided] into 20,000 shares of the value of \$50 each [*or as may be required*], and that until otherwise ordered the capital stock of the company shall consist of 20,000 shares of the value of \$50 each.]

Passed this — day of — 19—.

AS WITNESS the corporate seal of the company.

## BY-LAW AUTHORIZING DEBENTURES

TO BE ISSUED ON THE SECURITY OF A MORTGAGE ON THE  
COMPANY'S PROPERTY.

BY-LAW NO. —.

WHEREAS under the provisions of section 49 of The Ontario Companies Act (*h*) it is provided that, if authorized by by-law (*h*) R.S.O., c. 191.

passed by the directors and sanctioned by a vote of not less than two-thirds in value of the shareholders present in person or by proxy at a general meeting of the company duly called for considering the subject of such by-law, the directors of the company may issue the bonds, debentures or other securities of the company for the lawful purposes of the company and no other, and may pledge or sell the same for such sums and at such prices as may be deemed expedient or be necessary, and hypothecate, mortgage or pledge all or any of the real or personal property, rights and powers of the company to secure any such bonds, debentures or other securities.

[AND WHEREAS there are now outstanding certain debentures of the company amounting to \$400,000 secured by mortgage dated the — day of — 19—, made to —.]

AND WHEREAS it is desirable for the [purpose of redeeming the said outstanding debentures and for other] lawful purposes of the company to issue debentures of the company to the amount of [\$1,000,000] and to secure the same by mortgage as hereinafter provided for.

BE IT THEREFORE ENACTED by the directors of the — company as a by-law of the said company as follows:

1. That an issue of debentures of the company, not exceeding in the whole [\$1,000,000] principal money, be and the same is hereby authorized, each debenture to be for the sum of \$1,000 and to be dated the — day of — 19—, and to be payable at the office of the — bank in the city of —, on the first day of — 19—, with interest half-yearly on the — days of — and — in each year, payable at the same place, at the rate of — per cent per annum, such interest to be represented by coupons attached to the said debentures. Provided always that of the said [\$1,000,000] of debentures [\$700,000] only are in the first place to be certified by the trustees and delivered to the company. [Provided further that before the said \$700,000 of debentures are so certified and delivered the present outstanding debentures of \$400,000 are to be got in and cancelled.]

2. That the remaining [\$300,000] of the said debentures shall be held by the trustees of the mortgage securing the same, hereinafter mentioned, uncertified, and shall be certified and

delivered for the purposes only of meeting capital expenditure hereinafter made by the company in connection with extensions, constructions and betterments purchased or constructed in connection with the works and undertaking of the company. Provided that the said [\$300,000] of debentures or parts thereof may from time to time be certified by the trustees and delivered to the company, or its order, upon the proceeds of the sales thereof being deposited with the trustees. Provided further that the said trustees shall be obliged to meet [eighty] per cent only, and no more, of the capital expenditure above mentioned, and that the trustees may, in applying the same, act upon the certificate of the company's engineer, manager or other officer having charge of the matters in respect of which such proceeds are to be applied.

3. That the said debentures shall be under the seal of the company, countersigned by the president or vice-president and secretary.

4. That the coupons thereto shall bear the signature of the secretary, but such signatures may be engraved or lithographed, and such engraved or lithographed signature shall be deemed for all purposes to be the signature of the secretary.

5. That payment of the said debentures and interest shall be secured by a mortgage to — [*usually a trust company*] in trust, covering all the real and personal property, rights, franchises and powers [*or*, lands, buildings, property (*i*), stock in trade, furniture, chattels and effects whatsoever, both present and future] of the company, at present owned or possessed by the company and at any time hereafter during the currency of the said debentures owned or possessed by the company.

6. That the said debentures and the mortgage securing the same shall be in such form and contain such covenants, clauses, powers and conditions as to the directors of the company may seem best.

7. That the said debentures when executed by the company shall be delivered to the trustees of the said mortgage, to be by them certified and delivered in accordance with the foregoing provisions.

(*i*) The word "property" has been held to include the good will; (*In re Leas Hotel Co.*, 1902, 1 Ch. 332; 38 Canada Law Journal 363.)

8. That the said debentures shall be used for [the redemption of the said outstanding debentures, and for other] the lawful purposes of the company, and no other, and the directors are hereby authorized to pledge or sell the same for such sums and\* at such prices as may be deemed expedient or be necessary, or to exchange the same or parts thereof from time to time for the said outstanding debentures, which when received shall be cancelled.

Passed by the directors on the — day of — 19—.

As WITNESS the corporate seal of the said company duly attested.

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### AGREEMENT FOR COMMISSION.

BETWEEN COMPANY AND AGENT.

THIS AGREEMENT made in duplicate the — day of — 19—, between the — company, hereinafter called the company, of the first part, and — of — in the province of —, hereinafter called the agent, of the second part.

WITNESSETH that the company hereby appoints the said — as its agent for the purpose of canvassing and securing [applications for stock], acceptable as hereinafter provided, to the company, and for the purpose of collecting and paying over [fees, monthly dues, principal, interest, premiums, insurance premiums, fines, transfers,] or other moneys collected on account of the company, and of performing such other duties as may be required of him by the company in connection with its business.

This appointment is in the following terms and conditions, which are agreed to by each party hereto. The compensation to be allowed the agent by the company for his services shall be a commission upon cash payments and stock subscriptions obtained by the agent personally, which shall, during the continuance of this agreement, be obtained, collected, paid to and received by the company from the agent on [applications for stock and payments of monthly dues, etc.] which commissions shall be at and after the following rates, viz:

— per cent on [stock subscriptions; — per cent on the collection of monthly dues; — per cent on the collection of interest and premiums; — per cent on the collection of



interest and principal; — per cent on applications for loans under the company's definite plans approved and accepted at the head office of the company (said — per cent to be paid by borrower); — per cent on collection of insurance premiums on policies effected through the head office of the company; — per cent on the collection of rents]. Commissions under this agreement shall accrue only as the agent shall collect and pay over said collections to, and as they are received by, the company in cash.

The district in which the agent has permission to act is —.

By this agreement the relation of master and servant is created between the company and the agent, and the money collected by the agent remains and is the money of the company.

The agent shall not make, alter or discharge any contract, nor waive any forfeiture, nor make any misrepresentations nor alter the [printed] conditions of any document, article, by-law or receipt.

All moneys due by the agent under this agreement shall be by him transmitted to the head office monthly, in full of all accounts standing to his debit; and it is expressly agreed and understood that all moneys or securities received or collected under this agreement shall be held by the agent in trust for and as the property of the company, and shall be used by him for no purpose whatever, but be held, reported upon, accounted for, transmitted or paid to the company monthly, on or before the — day of each succeeding month.

The agent shall, on the termination of this agreement, deliver to the company or to such persons as it may appoint, all applications, receipts, books, papers, vouchers and documents belonging to the company in his hands.

The agent agrees to submit to and abide by all rules and regulations of the company, and all instructions and directions of the officers thereof, and to devote so much of his time and energy to the service of the company as these presents shall demand, and to act for the company in all respects as a good and efficient agent.

It is understood and agreed that the agent shall have, under this agreement, no claims whatever against the company for

expenses, advertising, rent, postage, petty charges, commissions, bank commission or services except as hereinbefore provided; and for the faithful and diligent discharge of this agreement the agent agrees to keep deposited with the company a satisfactory bond, for the performance of all duties pertaining to this agency, in the penal sum of — dollars.

And it is further understood and agreed that the company shall have the right to refuse any application for stock secured by the agent, without giving any previous notice to the agent, and also that the agent shall not be entitled to any remuneration for his services in securing applications so refused, either by way of commission or otherwise howsoever.

Each party hereto may terminate this agreement by giving the other — days' notice to that effect, either personally or otherwise, and the agent shall not be entitled to any commission upon moneys collected or received after the expiration of such notice, and shall have no claims upon the business obtained through his instrumentality, or otherwise, then upon the books.

For all infringements of this agreement the agent on his part and his sureties shall be held severally and jointly liable.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### BOND

#### COLLATERAL TO AGREEMENT FOR COMMISSION (j).

KNOW ALL MEN by these presents that we A.B. of — in the county of —, —, C.D. of — in the county of —, —, and E.F. of — in the county of —, —, are jointly and severally held and firmly bound unto the — company in the sum of — dollars, to be paid to the said company, its successors or assigns, for which payment to be well and truly made, we bind ourselves and each of us by himself, our and each of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

(j) See p. 307.

THE CONDITION of this obligation is such that if the above bounden A. B. shall pay to the said company or its certain attorney, successors or assigns, [monthly and every month] during the time for which he shall act as its or their agent, all moneys which he shall receive for [stock, principal on loans, premiums, interest, fines, transfer fees, insurance premiums] and all moneys from whatsoever source collected by the said A. B. belonging to, for or on account of the said company, and shall at the expiration or determination of the said agency pay over and deliver to the said company, its successors or assigns, all moneys, securities for moneys, books, documents, papers and other things in his possession or control of or belonging to the said company, and also at all times when called upon by the said company, its manager, inspector or attorney, account to the said company for all moneys received by him, and deliver up to the said company, its manager, inspector or attorney, all books, papers and writings in his possession relating to the business of the said company, whenever, called upon or required so to do by the said company, its manager, inspector or attorney, and shall in all things well and faithfully conduct himself as the agent of the said company in all things required of him as such agent, then this obligation shall be void.

And it is hereby declared and agreed that the said company, its successors or assigns, may take security for payments and at pleasure relinquish the same, and may extend and give to the said A. B. time for the payment of all or any of the said monthly or other payments, or any part thereof, without giving notice to or obtaining the consent of the above named C. D. or E. F. or of their or either or their heirs, executors or administrators, and further, that no change in the mode of compensation for the service of the said A. B. or in the mode of his appointment, or the duration of his office of agent, shall in any way affect the liability of the said bondsmen, their heirs, executors and administrators, or any one of them, under the above obligation.

SIGNED, SEALED, etc,

## AGREEMENT TO EMPLOY EXPERT

TO EXPLORE MINES AND LANDS OF THE COMPANY, ETC.

AGREEMENT made the — day of — 19—, between the — company, hereinafter called the company, of the one part, and B. of the — of —, —, of the other part.

WHEREAS the company is the owner of certain exploring and mining rights over and in respect of an extensive tract of country in —, and the company is desirous of engaging the said B. for the purposes hereinafter appearing:

NOW IT IS AGREED as follows:

1. B. shall place his services exclusively at the disposal of the company for one year from the — day of — 19—, but with power to the company, on giving him not less than [three] calendar months' previous notice in writing, to extend the said period until the — day of — 19—.

2. B. shall proceed to [*state destination, route and time of departure*].

3. B. shall, after his arrival in —, investigate and examine the said tract of country generally in relation to the said exploring and mining rights, and in particular as to its geological and agricultural advantages, and shall report to the company thereon and as to the value of the said rights and the prospects of the company in turning them to profitable account, and shall consider and report on the most likely methods of obtaining such a result.

4. The company shall, prior to the departure of B. from —, provide him with money sufficient to pay his travelling and other reasonable expenses to —, and his maintenance during such period and while in that country, including the sum of — dollars for his personal outfit and for the purchase by him of all instruments, apparatus and appliances which he may think necessary to take with him and use in the company's service, and such apparatus and appliances shall be and remain the property of the company, and be handed over to the company at the expiration of the period aforesaid.

5. In consideration of his services aforesaid, the company shall pay to B. a salary at the rate of — dollars per annum for the first year, by twelve equal monthly instalments of —

dollars each, and at the rate of — dollars per annum for the next year, if he shall be engaged by the company for that period, by twelve equal monthly instalments of — dollars each, and such salary shall, until B. shall otherwise direct the company in writing, be paid to A., the wife of B., or as she shall from time to time in writing direct.

6. B. shall, while in —, keep an active and complete account in the nature of a diary, of the disposition of his time in the company's service, and of all necessary particulars as to the nature of the work done, or services rendered, by him on behalf of the company, including dates, localities and names of persons, and also descriptions of localities and their inhabitants and of their geological and agricultural characteristics, so as to enable the company fully to estimate the nature, extent and quality of his work and services, and of the said property and rights, and shall, at the end of every calendar month, forward to the company the account and diary aforesaid for that period.

7. B. shall from time to time transmit to the company at the earliest opportunities all information obtained or discoveries made by him in relation to the company, or its property or rights, which he may think likely to be of importance or interest to the company; but he shall not, under any circumstances, give or transmit any reports, or give any information or express any opinion in respect of any mines, minerals, mineral deposits, lands, forests, waterways or other property or rights in which the company is, or is likely to become, interested, to any person or persons, or company or syndicate, or otherwise than to the company or to the directors thereof, or to any person authorized by them in writing to receive any such report, information or opinion.

8. Should B. not start for — by the said — day of —, the company may, by notice on writing served on him, rescind this agreement, and immediately on such rescission he shall repay to the company all moneys (if any) paid by the company to or on account of him as aforesaid, and give up to the company all such instruments, apparatus and appliances (if any) as aforesaid, which he may have in his possession.

9. If B. shall, after starting for — as aforesaid, unnecessarily stop on the journey or cease to complete the same, or

shall make unnecessary delay in reaching the scene of the property and rights of the company in —, or shall commit a breach of any of the provisions in clause 6 or 7 hereof in any important particular, or shall work against or neglect the interests of the company, or refuse or wilfully omit to carry out any request of the company in relation to his services aforesaid, then and in any such case the company may, by notice in writing served on B., rescind this agreement; but such rescission shall operate without prejudice to the right of the company to obtain from B. damages or compensation in respect of the act, omission or breach aforesaid on his part, on account of which such notice of rescission was given.

IN WITNESS, etc.

AGREEMENT TO CONVERT PARTNERSHIP BUSINESS  
INTO A COMPANY.

(Short form.)

AGREEMENT made this — day of — 19—, between A., of —, B., of —, and C., of —.

WHEREAS the said A., B. and C. have, for many years past, carried on business in partnership together at —, under the firm name and style of —, and the said A., B. and C. are desirous of converting their said business into a company.

NOW IT IS AGREED as follows:

1. A company shall forthwith be formed under [The Companies Act] for the acquisition and carrying on of the said business.

2. The letters patent [*or*, memorandum of association, *or as the case may be*] of the company shall fix the capital at — dollars, divided into — shares of — dollars each, and each of the parties hereto shall subscribe for — shares, and — other subscribers, who shall each subscribe for — shares, shall be selected by the parties hereto.

3. At the organization meeting of the company the said A., B. and C. shall be elected directors, and each of the parties, hereto hereby agree to support and vote for each other in such election and at any subsequent election of directors, provided

that each candidate possesses the qualifications required by the by-laws. [*Here insert any other desired special provisions.*]

4. The parties hereto shall enter into an agreement (hereinafter called "the sale agreement,") with the company for the sale and transfer to the company of the business aforesaid and all the assets thereof, as from the — day of — 19—, in consideration of — fully paid up — dollars shares in the capital of the company, and of the company undertaking to pay and satisfy all the debts and liabilities of the parties hereto in connection with the said business, and such shares shall be allotted to the parties hereto as follows, viz., to the said A. — shares, to the said B. — shares, and to the said C. — shares.

5. The expenses of and incident to this agreement, and the formation of the company and the conversion of the said business, shall be borne by the parties hereto in proportion to the shares to which they are to be entitled as aforesaid.

6. The sale agreement and other documents incidental to incorporation shall be prepared by Messrs. D. and E. of —, solicitors, on behalf of the parties hereto, and if any of the parties hereto shall have any difference as to the terms of the sale agreement or other documents incidental to the formation and organization of the company such difference shall be referred to the arbitration of — of —, —.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## AGREEMENT TO SELL BUSINESS

TO A COMPANY.

AGREEMENT made this — day of — 19—, between A., of —, and C., of —, hereinafter called the vendors, of the one part, and The — Company, Limited, hereinafter called the company, of the other part.

WHEREAS the vendors have for some time past carried on business at —, and elsewhere, as —, under the name, style and firm of "A. B. & Company."

AND WHEREAS the company has been formed under the provisions of [The Companies Act] with a nominal capital of —

dollars, divided into — shares of — dollars each, with a view, among other things, to the acquisition of the said business.

NOW IT IS HEREBY AGREED as follows:

1. The vendors shall sell and the company shall purchase,

First, the goodwill of the said business (with the exclusive right to use the name of A. B. & Company as part of the name of the company, and to represent the company as carrying on such business in continuation of the vendors' firm, and in succession thereto, and the right to use the words "Late A.B. & Company," or any other words to indicate that the business is carried on in continuation of or in succession to the said firm), and all trade marks in connection therewith.

Secondly, all the freehold and leasehold property respectively specified in the first, second and third schedules hereto.

Thirdly, all the plant, machinery, office furniture, furniture, patents, licenses, horses, waggons, carts, stock-in-trade, implements and utensils to which the vendors are entitled in connection with the said business.

Fourthly, all the book and other debts due to the vendors in connection with the said business, and the full benefit of all securities for such debts.

\* Fifthly, the full benefit of all pending contracts and engagements to which the vendors may be entitled in connection with the said business.

Sixthly, all cash in hand and at the bank, and all bills and notes of the vendors in connection with the said business.

Seventhly, all other property to which the vendors are entitled in connection with the said business.

2. Part of the consideration for the said sale shall be — dollars, which shall be paid and satisfied as follows: As to the sum of — dollars, in cash; and as to the sum of —, by the allotment to the vendors or their nominee of — fully paid up and non-assessable shares of the company at — dollars each.

3. As the residue of the consideration for the said sale the company shall undertake to satisfy and discharge all the debts, liabilities, contracts and engagements of the vendors in connec-



tion with the said business, and shall indemnify them against all proceedings, claims and demands in respect thereof.

4. The company shall, without investigation, requisition or objection, accept such title as the vendors have to the property hereby agreed to be sold.

5. The purchase shall be completed on the — day of — next, when possession of the premises and property shall, as far as practicable, be given to the company, and the consideration aforesaid in cash and shares shall be paid and satisfied subject to the provisions of this agreement, and thereupon the vendors and all other necessary parties, if any, shall, at the expense of the company, execute and do all assurances and things for vesting the said property in the company and giving to it the full benefit of this agreement which shall be reasonably required.

6. The vendors shall covenant with the company that neither of them will, at any time hereafter, either solely or jointly with, or as manager or agent for any other person, persons or company, directly or indirectly, carry on, be engaged, concerned or interested in the business of a —, or permit or suffer their names, or either of their names, to be used or employed in the carrying on or in connection with the said business within one hundred miles of the said business premises, save so far as the vendors shall, as members of the company, be interested, or as an officer or servant or agent of the company be employed in the business of the company.

7. The company shall, subject to the consent of the insurance company, on completion of the purchase be entitled to the benefit of the current insurance on the property hereby contracted to be sold.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### AGREEMENT FOR PURCHASE OF PROPERTY

BY A COMPANY.

AGREEMENT made this — day of — 19—, between — of —, hereinafter called the vendor, of the first part, and The — Company, incorporated under [*name of Act under which*

*charter granted*], hereinafter called the company, of the second part.

WHEREAS the vendor is the owner of the property and rights hereafter mentioned.

AND WHEREAS the directors of the company have ascertained, adjudged and declared that the said property and rights are of the fair value of — dollars, and that the acquisition thereof is necessary for the business of the company and to carry out its contemplated objects:

NOW THIS AGREEMENT WITNESSETH:

1. That the vendor hereby sells, assigns, transfers and sets over unto the company, its successors and assigns, all his right, title and interest in and to the following property, namely [*describe property*].

2. The company hereby agrees, in consideration of the said sale and upon the delivery of said property to it, to issue to the vendor or his nominees as hereinafter provided, and to such other nominees as the vendor shall in writing hereafter direct, at such times and in such amounts as they shall respectively direct, certificates of stock of the company to the aggregate amount of — shares, and the said shares shall be deemed to be and are hereby declared to be fully paid shares and not liable to any call thereon, and the holders of such stock shall not be liable to any further payment thereon.

3. The said stock shall be issued as follows, viz: To the vendor — shares, [*insert names of all persons to whom certificates are to be issued for the account of the vendor*].

4. The delivery of the certificates for the said shares to the above-named parties, and their respective receipts therefor, shall be a full discharge of each of the parties hereto to the extent thereof.

5. The vendor hereby covenants and agrees with the company, upon the request and at the cost of the company, to execute and do all such further assurances and things as shall reasonably be required by the company for vesting in it the property and rights agreed to be hereby sold, and giving to it the full benefit of this agreement.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## OPTION AGREEMENT

ON MANUFACTURING BUSINESS.

THIS AGREEMENT made the — day of — 19—, between The — Company, incorporated under [*name of Act under which charter granted*], the first party hereto, and — of —, the second party hereto.

WITNESSETH as follows:

FIRST. For and in consideration of [ten] dollars [and other good and valuable considerations] paid by the second party to the first party, the receipt whereof is hereby acknowledged, the first party agrees, upon the request of the second party, provided such request be made to the first party on or before the — day of — 19—, to sell, convey, transfer and deliver to the second party the following:

All the real estate, buildings, improvements, appurtenances, easements, plant, machinery, fixed and movable, now belonging to the first party and located at — in the county of — and province of —; also all the railroad tracks, furnaces, brick-work, foundations, boilers, pumps, water heaters, engines, housings, chilled rolls, shears, cranes, annealing boxes and stands, castings, buggies, trucks, steam, gas and water pipes, water and acid tanks, storage tanks, spare parts of machinery, electric plant, cars, shafting, belting, pulleys, hangers, gears, tools, forges, horses, wagons, implements and utensils of every nature whatsoever, located on or within the above described premises, or any property of the character described above belonging to the first party, which may be temporarily located elsewhere than on the above described premises, or for the purpose of making repairs, or for any other reason; intending hereby to include all property, machinery, material and supplies now being used for, or suitable to be used for, or in connection with the manufacture and shipment of —, excepting the goods, material and supplies hereinafter mentioned; also, all of the good-will, trade rights, trade marks, brands patents, inventions, formulas, and recipes, trade names and patents now owned or controlled by the first party. All of the foregoing property at the time of such sale to be free and clear from all liens, charges, incumbrances, taxes, and assessments whatsoever.

The first party shall and will within [ten] days after notice to that effect furnish and deliver to the second party for examination by its counsel full and complete abstracts of title to the said real estate.

Second. The second party shall have and is hereby given the exclusive right and option to purchase of the first party all of the foregoing property on or before the — day of — 19—, for the consideration of — dollars, [cash,] to be paid by the second party to the first party [at the time of the consummation of such purchase].

Third. If, during the period of this contract, any part of the property hereinbefore described shall be destroyed or damaged by fire or other casualty, then and in that event, unless the property so destroyed or damaged shall be fully restored on or before the — day of — 19—, to the condition in which it was immediately preceding such destruction or damage, then to the extent of the loss resulting from such injury the purchase price hereinbefore specified shall be abated. The extent of such loss, in case the parties hereto cannot agree thereon, shall be ascertained and determined by arbitrators in the manner hereinafter provided.

Fourth. At the time of the consummation of the sale and purchase of the property hereinbefore described the first party hereby agrees to sell and deliver, and the second party hereby agrees to purchase of the first party, in addition to the foregoing, the following:

(a) All of the [*manufactured product described in detail*] then owned by the first party, the price to be paid therefor to be the then market value thereof.

(b) All of the following described goods, materials and supplies located upon or within the above described premises, or in transit to the same, at their cost price to the first party, to wit: [*Crude materials described in detail.*]

(c) All unexpired fire, liability and other insurance policies then in force, at the pro rata thereof.

The price to be paid for the property specified in this paragraph, shall be paid in cash contemporaneously with the payment of the sum specified in paragraph "Second" hereof.

Fifth. In case of the consummation of the purchase of the property covered by this contract, then contemporaneously therewith the second party shall assume all bona fide contracts made by the first party for the purchase or sale of materials, raw or manufactured.

Sixth. In case of the purchase of the property covered by this contract, then contemporaneously therewith the first party shall cause to be properly executed by itself and by all of its officers a contract or contracts with the second party, by which the first party and such officers shall bind themselves for a period of [fifteen] years after the consummation of such purchase not to engage or be or become interested, directly or indirectly, as individuals, partners, stockholders, directors, officers, clerks, agents or employees in the business, (other than that of transferee hereunder of the second party) of buying, manufacturing or selling —, or any kindred products or any of the by-products of a — factory, within a radius of — miles of the city of —.

Seventh. The first party hereby agrees in case of the consummation of the purchase of the property embraced in this contract that it will forthwith, upon demand of the second party, execute or cause to be executed by the first party and all its officers such further instrument or instruments as may be required by the second party for the purpose of carrying out the purposes and provisions of this agreement.

Eighth. In case any difference of opinion shall arise between the parties hereto in the interpretation and carrying out of this instrument, or any of its provisions, then and in that event such difference shall be determined by three arbitrators; each of the parties hereto to appoint one arbitrator, and the other two so chosen to select a third arbitrator. The award of a majority of such arbitrators shall be binding and conclusive upon the parties hereto; the appointment of such arbitrators by the respective parties hereto shall be made by each of the said parties within ten days after receiving notice from the other of the said parties to make such appointment. The failure of either of the parties hereto to appoint such arbitrators shall authorize the other of the said parties to make an appointment for the one so in default. The two arbitrators

chosen shall select a third arbitrator within five days after the appointment of the first two arbitrators. If the first two arbitrators fail or are unable within the time hereinbefore specified to select a third arbitrator, then any judge of any court of record in the province of —, upon application made by either of the parties hereto for the purpose, is hereby authorized and empowered to appoint such third arbitrator. The award to be made by the arbitrators hereunder shall be made within fourteen days of the appointment of the third arbitrator.

This agreement and everything herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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# CONDITIONS OF SALE.

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## CONDITIONS OF SALE OF GOODS.

### BY INVENTORY.

CONDITIONS of sale of goods and chattels belonging to [the estate of] —, by [auctioneers].

1. The goods and chattels mentioned in the inventory produced are offered for sale at a rate upon the dollar of the inventory value thereof, without reduction or abatement, except —, which are to be adjusted by inventory prices before settlement of purchase.

2. The highest bidder shall be the purchaser, and if any dispute arise as to the last or highest bid, the goods, etc., shall be put up at a former bidding.

3. No person shall retract his bid.

4. The [vendor] reserves the right to one bid.

5. The purchaser shall at the time of sale sign the annexed agreement for purchase, and shall pay down a deposit of [ten] per cent of his purchase money to the [vendor], and sufficient therewith to make [25 per cent] of the purchase money in — days, and the balance in — equal instalments secured to the satisfaction of [the vendor] at — months with interest at — per cent per annum, and upon the full completion of such purchase the purchaser shall be entitled to be put into possession.

6. Time shall be considered of the essence of these conditions and the agreement to purchase, and if the purchaser fail to comply with these conditions, or any of them, the said deposit shall be forfeited to the [vendor], who shall be at liberty to resell the goods, without notice to the defaulter, and the deficiency, if any, by such re-sale, together with all charges attending the same, or occasioned by the defaulter, are to be made good by the defaulter.

7. The purchaser shall have — days to check the said inventory and goods, free of expense, after which the purchaser is to assume the rent and taxes and other rates, and to arrange with the landlord of the property as to tenancy.

[Signed] —, Auctioneers.

#### AGREEMENT FOR PURCHASE.

It is hereby declared and agreed by and between —, the vendor of the goods and chattels mentioned in the annexed conditions of sale, and —, that the said — has become the purchaser of the goods and chattels in the said conditions described, at the sum of — cents in the dollar of the inventory value thereof, and that the sum of — dollars has been paid down by the said — to the said — by way of deposit and in part of said purchase money, and that the particulars and conditions of sale shall be taken as the terms of agreement for the said sale and purchase respectively, and be observed and fulfilled by the said — and — respectively in all things.

AS WITNESS their hands this — day of — 19—.

WITNESS:	}	[Signature of purchaser.]
		[Signature of vendor or his agent.]

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#### CONDITIONS OF SALE OF GOODS.

(Another form.)

1. The highest bidder for each lot shall be the purchaser, and if any dispute arises as to the last or highest bid the lot shall immediately be put up again at a former bidding.

2. No person shall advance less than — cents at a bidding, and no person shall retract his bid.

3. All purchasers shall give in their names and place of residence (if required), and pay down a deposit of — per cent in part payment of the purchase money, and in default of so doing the lot or lots may be immediately put up again and re-sold.

4. All lots shall be taken away at the buyer's expense within — days after the sale, and the remainder of the purchase money shall be paid on or before delivery. 



5. If the purchaser fail to comply with the above conditions his deposit money shall be forfeited, and any lot not removed within the time aforesaid may be re-sold by public auction or private sale, and the deficiency (if any) on such re-sale shall be made good by the person making default.

[*Signature of auctioneer.*]

[*For "Agreement for Purchase," see p. 323.*]

#### CONDITIONS OF SALE OF GOODS.

(*Another form.*)

1. The highest bidder for each lot shall be the purchaser, and if any dispute shall arise respecting any bidding the lot shall be put up again, or not, at the auctioneer's discretion, to whom is reserved the right of refusing any bidding and of withdrawing any lots from the sale.

2. The purchaser of each lot shall, if required, pay down immediately a deposit of — per cent in part payment of his purchase money, and shall give his or her name and address; such deposit shall be applicable, at the auctioneer's discretion in or towards payment for any of the lots bought by such purchaser.

3. The lots shall be paid for before — o'clock the day after the sale, whether genuine and authentic or not, with all faults and errors of description, and cleared and removed at the purchaser's expense and risk, the auctioneer not being responsible for the correct description, genuineness or authenticity of or for any default or defect in any lot, and making no warranty whatever.

4. On failure of any purchaser to comply with the above conditions, the money deposited by him in part payment as aforesaid shall be forfeited; and all lots not cleared as aforesaid shall, without notice, be re-sold by public or private sale, and the deficiency (if any), as well as the expenses of such re-sale, shall be made good by the defaulters at this present sale.

[*Signature of auctioneer.*]

[*For "Agreement for Purchase," see p. 323.*]

## CONDITIONS OF SALE OF GOODS

SOLD BY TRUSTEE FOR CREDITORS.

IN THE MATTER of the goods and chattels belonging to the estate of —.

1. The goods and chattels mentioned in the inventory produced are offered for sale by [*vendor*] at a rate upon the dollar of the inventory value thereof, without reduction or abatement, except as regards shorts and longs in quantities, which are to be adjusted by inventory prices before settlement of purchase.

2. The highest bidder shall be the purchaser, and if any dispute arises as to the last or highest bid the goods, etc., shall be put up at a former bidding.

3. No person shall retract his bid.

4. The trustee [*vendor*] reserves the right to one bid.

5. The purchaser shall at the time of sale sign the annexed agreement for purchase, and shall pay down a deposit of — on account of his purchase money to the trustee, and shall pay the remainder as follows: — cash (less the deposit), and the balance in — equal instalments at — and — months from the day of sale, with interest at — per cent per annum, the whole secured to the satisfaction of the trustee [and inspectors], and upon the full completion of such purchase the purchaser shall be entitled to be put in possession.

6. The purchaser shall proceed to check the said inventory at once, and continue until completed.

7. Time shall be considered the essence of these conditions and of the agreement to purchase, and if the purchaser fail to comply with these conditions, or any of them, the said deposit shall be forfeited to the trustee, who shall be at liberty to re-sell the goods by public auction or private sale without notice to the defaulter, and the deficiency (if any) by such re-sale, together with all charges attending the same, or occasioned by the defaulter, are to be made good by the defaulter.

8. The purchaser shall have — days to check the inventory and goods, free of expense, after which the purchaser is to assume the rent and taxes and other rates, and to arrange with the landlord of the premises as to the tenancy.

[*Signed*] —, Auctioneer.

## AGREEMENT FOR PURCHASE.

It is hereby declared and agreed by and between — the vendor [*trustee*] of the goods and chattels mentioned in the annexed conditions of sale and —, that he, the said —, became the purchaser of the goods and chattels in the said conditions described, at the sum of — cents in the dollar of the inventory value thereof, and that the sum of — dollars has been paid by the said — to the said — [*trustee*] by way of deposit, and in part payment of the said purchase money, and that the particulars and conditions of sale shall be taken as the terms of agreement for the said sale and purchase respectively in all things.

AS WITNESS their hands this — day of — 19—.

WITNESS:	}	[ <i>Signature of purchaser.</i> ]
	}	[ <i>Signature of trustee or his agent.</i> ]

## CONDITIONS OF SALE OF LAND.

## STANDING CONDITIONS OF THE COURT (a).

1. No person shall advance less than \$10 at any bidding under \$500, nor less than \$20 at any bidding over \$500, and no person shall retract his bidding.

2. The highest bidder shall be the purchaser; and if any dispute arise as to the last or highest bidder, the property shall be put up at a former bidding.

3. The parties to the action, with the exception of the vendor [*and, naming any parties, trustees, agents, or others, in a fiduciary situation,*] shall be at liberty to bid.

4. The purchaser shall, at the time of sale, pay down a deposit in proportion of \$10 for every \$100 of the purchase money, to the vendor, or his solicitor; and shall pay the remainder of the purchase money on the — day of — next; and upon such payment the purchaser shall be entitled to the conveyance, and to be let into possession; the purchaser at the time of sale to sign an agreement for the completion of the purchase.

(a) Consolidated Rule No. 723 of H. C. J., Ontario.

5. The purchaser shall have the conveyance prepared at his own expense, and tender the same for execution.

6. If the purchaser fails to comply with the conditions aforesaid, or any of them, the deposit and all other payments made thereon shall be forfeited, and the premises may be re-sold; and the deficiency, if any, by such re-sale, together with all charges attending the same, or occasioned by the defaulter, are to be made good by the defaulter.

Dated the — day of — 19—.

AGREEMENT FOR PURCHASE.

I agree to purchase the property [*or*, lot —] mentioned in the annexed particulars for the sum of —, and upon the terms mentioned in the above conditions of sale.

Dated the — day of — 19—.

WITNESS:

CONDITIONS OF SALE OF LAND.

(*Common form.*)

CONDITIONS of sale by auction of lands mentioned in the annexed particulars.

1. The property will be put up in — lot, subject to a reserved price.

2. The highest bidder over the reserved price shall be the purchaser, and, if any dispute shall arise between two or more bidders, the property in dispute shall be put up again. No person shall advance at any bidding less than — dollars, and no bidding shall be retracted.

3. The purchaser shall, immediately after the sale, pay to the vendor a deposit of — per cent of the amount of his purchase money and sign an agreement to complete the purchase according to these conditions.

4. The remainder of the purchases money shall be paid as follows, that is to say: — dollars on the — day of — 19—, at the office of —, the vendor's solicitor, and the remainder —. And the purchase shall on the said — day of — be completed at the said office. And in case, from any

cause whatever, the purchase shall not be completed on the said — day of — the purchaser shall pay interest at the rate of — per cent per annum on the whole of the unpaid purchase money from the said date until the completion of the purchase.

5. The purchaser shall be entitled to possession from and after —. The vendor will pay out of the purchase money all taxes, local improvement rates and other assessments up to the thirty-first day of December last, and the taxes for the current year. All insurance and rents shall be apportioned to the date of the completion of the sale.

6. The purchaser is to be allowed — days to search the title, and shall send his objections and requisitions (if any) to the office of the vendor's said solicitor in writing within the said time and, in default of such objections and requisitions (if none) and subject only to such (if any), shall be deemed to have accepted the title, and any answer to any such or subsequent objection or requisition shall, within — days from the delivery of such answer, be replied to by a statement in writing, transmitted to the said office, and if not so replied to and accepted in so far as so replied to shall be considered satisfactory, and the objection or requisition to which such answer shall have been made shall be considered as waived. Time shall be considered the very essence of this condition.

7. If any objection or requisition shall be made and insisted on which the vendor shall be unable or unwilling to remove or comply with, the vendor shall be at liberty (notwithstanding any intermediate negotiation on the subject of such objection or requisition, or attempts to remove or comply with the same), by notice in writing to the purchaser making the same, to rescind the sale, in which case such purchaser shall receive back the amount paid on account of purchase money, with interest at — per cent per annum in full satisfaction of all claims.

8. The vendor shall not be required to produce —, nor shall any covenant be required for the production of any documents or evidence of title not in the vendor's possession, and the expense of the production and examination, and of making and furnishing abstracts of all documents and evidences of title (if any) not in the vendor's possession, and of obtaining, making and producing all copies of or extracts from any records, re-

gisters or documents, whether in the vendor's possession or not, and of registering any documents which the purchaser shall require to be registered, and of all declarations and other evidence, and of all journeys, searches and enquiries made or required for verification or completion of the abstract, or the inspection or obtaining of any documents or evidences of title or otherwise, shall be borne by the purchaser requiring the same.

9. Upon the completion of the purchase at the time and place aforesaid, the vendor will execute a proper assurance to the purchaser of the property purchased, such assurance to be prepared by the vendor's solicitor, the expense thereof to be borne by the purchaser. A draft of such assurance is to be ready at the office of the vendor's solicitor, not less than — days before the day for the execution thereof, for examination and approval by the purchaser's solicitor.

10. The vendor is a mortgagee [*or as the case may be*] selling under a power of sale in a certain mortgage, and shall not be required to enter into any covenant other than a covenant that the vendor has not encumbered the property.

[*Here insert any special provisions.*]

11. The description of the property in the particulars is believed to be correct, but if any error be found therein it shall not annul the sale, nor shall any compensation be allowed in respect thereof.

12. It shall not be necessary for the vendor to tender a conveyance in any event.

[13. The vendor will, if required, advance to the purchaser on mortgage on the property sold a sum not exceeding — dollars for a period not to exceed — years at the rate of — per cent per annum computed from —, such mortgage to be in the usual statutory form (*or as is desired*).]

If the purchaser shall fail to comply with the above conditions the said deposit money shall be forfeited to the vendor, and the vendor may thereupon, with or without notice to the purchaser, and either by public auction or private contract, re-sell the property in such manner as the vendor shall think fit, and any deficiency in price which may happen on, and all charges and expenses attending, such re-sale shall be borne by the pur-

chaser at the present sale, and shall be recoverable by the vendor as and for liquidated damages. And it is hereby agreed that the amount of said deposit and the deficiency (if any) on and the expenses attending such re-sale shall be the amount of the liquidated damages to which the vendor shall be entitled.

Dated the — day of — 19—.

#### MEMORANDUM OF PURCHASE.

At the sale by auction, made at — this — day of — 19—, of the property comprised in the particulars hereto annexed, —, the person whose name is subscribed in the first column of the schedule hereunder written, was the highest bidder for, and was declared the purchaser of the parcel set opposite his name in the second column thereof at the price set opposite the same in the third column thereof, and has paid the sum set opposite the same in the fourth column thereof by way of deposit and in part payment of the purchase money, and the said — and — hereby respectively agree to complete the purchase according to the above conditions, and — [the solicitor for —] the vendor [on behalf of —, the vendor,] confirms the said sale, and acknowledges the receipt of the said deposit by signing his name opposite the signature of the purchaser in the fifth column of the said schedule.

#### SCHEDULE ABOVE REFERRED TO.

1 Signature of purchaser.	2 Parcel purchased.	3 Price.	4 Deposit.		5 Signature of vendor.
			\$	cts	

#### CONDITIONS OF SALE OF LAND.

(Another form.)

CONDITIONS of sale by auction of the property described as parcel number — in the annexed advertisement, by virtue of the powers of sale contained in a mortgage made by — to — bearing date the — day of — 19—.

1. The highest bidder shall be the purchaser, the vendor reserving the right to name one bid by way of an upset price, or as a reserve bid; and if any dispute arise as to the last or highest bidder the property shall be put up at a former bidding.

2. No person shall advance less than — dollars at any bidding and no person shall retract his bidding.

3. The purchaser shall, at the time of sale, pay down a deposit in the proportion of ten dollars for every hundred dollars of his purchase money to the vendor, and sign the subjoined agreement, and shall pay the remainder of the purchase money within [thirty] days thereafter; and if not so paid, or any part thereof, from any cause whatever, the purchaser shall pay interest on the unpaid balance, at the rate of [six] per cent per annum from the day of sale until so paid; but a purchaser desiring time for payment of part of his purchase money may take the benefit of the sixth condition hereunder written.

4. The purchaser shall be allowed [ten] days to investigate the vendor's title at his own expense, during which time he must object to the title, if he has any objections thereto. Should any sufficient objection be shewn within the time allowed, the vendor shall have a reasonable time to remove such objection, and if not so removed the deposit shall be returned and the sale cancelled. And if the purchaser shall not have made any valid objection to the vendor's title within the time above specified, or if making any such objection then within — days after the removal thereof, he shall pay the balance of the purchase money as above provided, and be entitled to a conveyance to be prepared by the vendor's solicitor at the expense of the purchaser. The above stipulations as to title and time are hereby made strictly the essence of this contract; and the purchaser shall not be entitled to call for the production of any further or other abstract of title, or verification thereof, or proof or evidence of title, or any deeds, papers or documents or copies of any deeds, papers or documents relating to the said property other than those which are now in the possession of the vendor and which may be inspected at the office of the vendor's solicitor.

5. If the purchaser shall neglect or refuse to comply with the above conditions, his deposit shall be forfeited to the vendor, who shall be at full liberty to re-sell the property, either by public



auction or by private contract, and the deficiency, if any, by such re-sale, together with all charges attending the same, or occasioned by the defaulter, shall be made good by the defaulter; and it shall not be necessary for the vendor to tender a conveyance to the purchaser.

6. The vendor will, if required, advance to the purchaser by way of mortgage on the property sold a sum not exceeding — dollars, for a period not exceeding — years at — per cent per annum, computed from the day of sale, such mortgage to be in the usual statutory form [*or as may be agreed*], and to be prepared and registered at the purchaser's expense by the vendor's solicitor.

Dated this — day of — 19—.

#### AGREEMENT FOR PURCHASE.

I agree to purchase the property described as parcel number — in the annexed advertisement, subject to the foregoing conditions of sale, for the sum of — dollars.

Dated the — day of — 19—.

WITNESS:

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#### CONDITIONS OF SALE OF LAND.

(*Short form.*)

1. The property described in the annexed particulars will be put up in — lot, subject to a reserved bid.

2. The highest bidder shall be the purchaser. In case of dispute between bidders, the property shall be put up again. No person shall retract his bidding.

3. The purchaser shall, at the time of sale, pay a deposit of — per cent of the amount of the purchase money, and the sale shall be completed within — days thereafter, when the balance of said purchase money shall be paid.

4. Immediately after the sale the purchaser shall sign a contract to complete the sale according to these conditions.

5. All adjustments of insurances, rents, taxes, local improvements, rates and other assessments to be apportioned to the date of completion of sale, when possession shall be given.

6. The purchaser shall not call for any abstracts or other evidence of title not in the possession of the vendor, and shall make any objections to the title in writing to the vendor's solicitor within —days from the date of the sale, and in default of making any such objections the purchaser shall be deemed to have accepted the title.

7. If any objection shall be made which the vendor shall be unable or unwilling to remove, the vendor shall be at liberty to rescind the sale, in which case the purchaser shall receive back the amount paid with interest, in full satisfaction of all claims.

8. If the purchaser fails to comply with the conditions aforesaid, or any of them, the deposit and all other payments made thereon shall be forfeited, and the property may be re-sold, and the deficiency, if any, by such re-sale, together with all charges attending the same, are to be made good by the defaulter.

9. Time is to be the essence of these conditions.

Dated the — day of — 19—.

#### AGREEMENT FOR PURCHASE.

I agree to purchase [lot — of] the property mentioned in the annexed particulars, for the sum of — dollars, upon the terms mentioned in the above conditions of sale.

Dated at — the — day of — 19—.

WITNESS.

# CONVEYANCES.

## CONVEYANCE OF LAND.

(Statutory deed.)

(R.S.O., c. 124.)

THIS INDENTURE made the — day of —, one thousand nine hundred and —, in pursuance of The Act respecting Short Forms of Conveyances (a), between — of the — of — in the county of —, —, of the first part; [—, wife of the said party of the first part, of the second part], and —, of the — of — in the county of —, —, of the [third] part.

[Here insert recitals, if any.]

WITNESSETH, that in consideration of — dollars, of lawful money of Canada, now paid by the said party of the second part to the first party of the first part, the receipt whereof is hereby by him acknowledged, he, the said party of the first part, doth grant unto the said party of the second part, in fee simple [or otherwise as the case may be] all that certain parcel of land (b), situate, etc.

To hold (c) unto the said party of the second part, his heirs and assigns, to and for his and their sole and only use forever.

(a) R.S.O. c. 124.

(b) Under the Act respecting Short Forms of Conveyances (R.S.O., c. 124) the term "lands" extends to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein, respectively. "The term land comprehends any ground, soil or earth whatsoever, as arable meadows, pastures, woods, moors, waters, marshes, furzes and heath. It includes also all houses and other buildings thereon, so that, if I convey the land or ground, the structure or building passeth therewith" (Sir Edward Coke). Therefore if a man grants all his lands, he grants thereby, unless excepted, all his mines of metal and other fossils, his woods, his waters and his houses, as well as his fields and meadows (Armour on Real Property, p. 61). In Ontario the term "land" for the purpose of conveyance, has an extensive signification (see R.S.O., c. 119, ss. 1, 12; c. 124, s. 1, para. 1; *Winfield v. Fowlie*, 14 O. R. 102).

(c) This clause (the habendum) is usually inserted in conveyances, although it does not appear in the Short Forms Act, and is not required unless "uses" are to be declared.

The said party of the first part covenants with the said party of the second part that he has the right to convey the said lands to the said party of the second part notwithstanding any act of the said party of the first part, and that the said party of the second part shall have quiet possession of the said lands, free from all incumbrances.

And the said party of the first part covenants with the said party of the second part that he will execute such further assurances of the said lands as may be requisite.

And the said party of the first part covenants with the said party of the second part that he has done no act to incumber the said lands.

And the said party of the first part releases to the said party of the second part all his claims upon the said lands.

[And the said —, wife of the said party of the first part, hereby bars her dower (*d*) in the said lands.]

IN WITNESS whereof the said parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED }  
in the presence of }

#### CONVEYANCE OF LAND.

(*Short form (e).*)

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting Short Forms of Conveyances, between — of the — of — in the county of —, —, hereinafter called the grantor, of the first part; [—, wife of the grantor, of the second part], and — of the — of — in the county of —, —, hereinafter called the grantee, of the [third] part.

[*Here insert recitals, if any.*]

WITNESSETH that in consideration of — dollars now paid by the grantee to the grantor, the receipt whereof is hereby by

(*d*) See Appendix C, on Dower.

(*e*) This form is sufficient to comply with the Short Forms Act, (R.S.O. c. 124.) and omits obsolete and unnecessary words.

him acknowledged, he, the grantor, doth grant unto the grantee in fee simple all that certain parcel of land (*f*), situate, etc.

To hold (*g*) unto and to the use of the grantee, his heirs and assigns.

The grantor covenants with the grantee that he has the right to convey the said lands to the grantee notwithstanding any act of the grantor, and that the grantee shall have quiet possession of the said lands free from all incumbrances.

And the grantor covenants with the grantee that he will execute such further assurances of the said lands as may be requisite.

And the grantor covenants with the grantee that he has done no act to incumber the said lands.

And the grantor releases to the grantee all his claims upon the said lands.

[And the said party of the second part, wife of the grantor, hereby bars her dower (*d*) in the said lands.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

### CONVEYANCE OF LAND

BY BENEFICIAL OWNER (*h*).

(R.S.O., c. 119, s. 17.)

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting the Law and Transfer of Property, between — of the — of — in the county of —, —, hereinafter called the grantor, of the first part, and — of the — of — in the county of —, —, hereinafter called the grantee, of the second part.

[*Here insert recitals, if any.*]

(*f*) See note (*b*) on p. 334.

(*g*) See note (*c*) on p. 334.

(*h*) In a conveyance for valuable consideration under s. 17 of the Act respecting the Law and Transfer of Property (R.S.O. c. 119) the following covenants are implied by a person who conveys, and is expressed to convey, as beneficial owner, namely: covenants for right to convey, quiet enjoyment, freedom from incumbrances, and further assurance; according to the tenor and effect of the forms of covenants in Schedule B to the Act respecting Short Forms of Conveyances, and therein numbered 2, 3, 4 and 5 respectively.

WITNESSETH that in consideration of — dollars of lawful money of Canada, now paid by the grantee to the grantor (the receipt whereof is by him acknowledged), he, the grantor, as beneficial owner, doth convey unto the grantee in fee simple [*or otherwise as the case may be*] all that certain parcel of land (i) situate, etc.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### CONVEYANCE OF LAND

#### MORTGAGE TAKEN FOR BALANCE OF UNPAID PURCHASE MONEY.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between — of —, hereinafter called the grantor, of the first part, [—, his wife, of the second part] and — of —, hereinafter called the grantee, of the [third] part.

WITNESSETH that in consideration of — dollars, whereof — dollars is now paid by the grantee to the grantor, the receipt whereof is hereby by him acknowledged, and the remaining — dollars whereof remains unpaid a lien upon the lands hereby conveyed and is to be collaterally secured by mortgage thereof, the grantor doth grant unto the grantee, in fee simple, all that certain parcel of land, situate, etc.

To hold (j) unto and to the use of the grantee, his heirs and assigns, subject to the payment of the said unpaid purchase money.

The grantor covenants with the grantee that he has the right to convey the said lands to the grantee notwithstanding any act of the grantor, and that the grantee shall have quiet possession of the said lands free from all incumbrances, except as aforesaid. And the grantor covenants with the grantee that he will execute such further assurances of the said lands as may be requisite. And the grantor covenants with the grantee that he has done no act to incumber the said lands, except as aforesaid. And the grantor releases to the grantee all his claims upon the

(i) See note (b) on p. 334.

(j) See note (e) on p. 334.

said lands (excepting as regards the said lien for unpaid purchase money). And it is agreed that a discharge of the said mortgage to be given for unpaid purchase money shall be a discharge of the said lien.

[And the said —, wife of the grantor, hereby bars her dower in the said lands.]

IN WITNESS, etc.

SIGNED, SEALED, etc. \_\_\_\_\_

### CONVEYANCE OF LAND

WITH SPECIAL DESCRIPTIONS, RESERVATIONS AND COVENANTS (*k*).

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between — of the — of — in the county of —, —, hereinafter called the grantor, of the first part, [—, wife of the grantor, of the second part,] and — of the — of — in the county of —, —, hereinafter called the grantee, of the [third] part.

WITNESSETH that in consideration of — dollars now paid by the grantee to the grantor (the receipt whereof is hereby acknowledged), the grantor doth grant unto the grantee in fee simple

#### *Piece of land (l).*

All that certain parcel of land situate in the, etc.

#### *Water lot.*

All that parcel of land, and land covered by water, situate etc.

#### *Lake.*

All that parcel of land and land covered by water known as the — Lake, situate, etc., containing by admeasurement [or, estimation] — acres or thereabouts, as shown on the map or plan hereto annexed and thereon coloured [pink], [or, thereon surrounded by a verge line coloured pink] and described in the schedule hereto.

(*k*) See also special clauses in Agreement for Sale of Land, on p. 52.

(*l*) See note (*b*) on p. 334.

*Machinery.*

All the plant, engines, machinery and gear fixed and movable, and implements, utensils and effects in, upon, about, used in, or belonging to the said lands, premises and works [all of which machinery, implements and effects are specified in the schedule hereto].

*Undivided half.*

All that undivided — part or share of the grantor of and in that certain parcel of land, situate, etc.

*Reversion after life tenancy.*

All that the remainder [or, reversionary interest] in fee simple of the grantor [*expectant*] upon and to take effect in possession immediately upon the death of —, tenant for life of and in all that certain parcel of land, situate, etc.

*Right of way (m).*

Together with a right of way, ingress and egress for persons, animals and vehicles over and along the roadway, the site and course of which is shown on the plan hereto annexed, and therein coloured —, [*or else specify the land or road affected*] [and the expense of keeping the said road in repair shall be borne by the grantor and the grantee in equal moieties].

*Right to use drains.*

With the right to enter and use all sewers and drains, now or hereafter made, which pass under or along any of the streets adjoining the said land, or in or upon the adjoining property belonging to the grantor.

*Mines and mining rights.*

With all mines and minerals whatsoever already found or which may hereafter be found on or under the said lands, together with full liberty for the grantee and his lessees, agents, servants and workmen, and all other persons by his or their or any of their authority or permission at any time and from time to time, [\*] and either with or without horses and other animals, wagons and other vehicles, to enter upon the said lands for the

(m) See form of Grant of Right of Way, and notes thereto, on p. 362.



purpose of searching for, digging, working, mining, procuring and carrying away the said mines and minerals, and also to sink, open and work any wells, pits, shafts, drifts, or mines within the limits of the said lands, and to make such erections and buildings and lay down railroads and other roads in, upon, under and over the said lands as may be necessary for the more convenient working and carrying away of the said mines and minerals, and also to appropriate and use any part of the surface of the said lands for depositing and heaping thereon the minerals, waste, rubbish and other substances which may be taken out of the said mines, [making reasonable compensation for any damage which may be occasioned by such acts or any of them].

*[If it is not intended to convey the surface of the land, but that the mines are to be worked through the adjoining property, insert the following instead of what follows the asterisk (\*) on p.339: but by underground workings only, and, without entering upon the surface of the said lands, to search for, get, work, take away and dispose of the said mines and minerals hereby conveyed, and to do all things necessary or expedient for the purposes aforesaid, or any of them, but subject to the liability of the grantee to make compensation to the grantor and his lessees and tenants and the owners or occupiers for the time being of the surface of the said lands for all and any damage or injury to the surface which shall or may be caused or occasioned by or by reason of the exercise of the liberties, powers and authorities hereinbefore mentioned, or any of them.]*

*Coal mines, without surface.*

Together with all the mines, veins or seams of coal in or under the said lands, together with the full right and power of making, sinking, maintaining and using all such pits, shafts, drifts, levels, drains, watercourses and reservoirs, and of constructing, erecting, maintaining and using all such railroads, tramroads and other roads, bridges, culverts, buildings, works, engines, machinery, coal banks and conveniences whatsoever, and of doing all such things in, under, upon, through or over the said lands, or any part thereof, as may be necessary or convenient for searching for, working, getting, preparing, carrying away and disposing of the said mines or seams, and the coal to

be obtained therefrom, making from time to time, nevertheless, to the grantor and his lessees and tenants, reasonable compensation for all damage thereby done or occasioned to the said lands or any buildings thereon.

*Reservation of right of way.*

Excepting and reserving unto the grantor, his heirs and assigns, full right and liberty at all times hereafter, in common with all other persons who may hereafter have the like right, to use the said passage-way for all purposes connected with the use and occupation of the grantor's other lands and houses adjoining the same.

*Reservation of right to lay sewers and pipes.*

Excepting and reserving to the grantor, his heirs and assigns, the right at any time to lay down and construct sewers, drains and water pipes in and upon the said lands, and to keep and maintain the same for the convenience of the grantor's other lands and buildings adjoining the lands hereby granted.

*Reservation of minerals and right to work them.*

But there is hereby reserved to the grantor, his heirs and assigns, out of the conveyance hereby made all mines, veins, seams and beds of coal, iron and other minerals whatsoever already found or which may hereafter be found under the said lands, with full liberty of ingress, egress and regress at all times for the grantor, his servants, agents and workmen, in, to and upon the said lands, and either with or without horses and other animals, wagons and other vehicles, for the purpose of searching for, working, getting and carrying away the said mines and minerals, and with full liberty also for the grantor to sink, drive, make and use pits, shafts, drifts, adits, aircourses and watercourses, and to erect and set up fire and other engines, machinery and works, and to lay down railroads and other roads in, upon, under and over the said lands or any of them for the purpose of more conveniently working and carrying away the said mines and minerals, and also to appropriate and use any part of the surface of the said lands for depositing, placing and heaping thereon the minerals, waste, rubbish and other substances which may be obtained from the said mines, and generally to do all other acts and things necessary or proper for working and obtaining the said mines and minerals.

Provided always that the grantor, his executors, administrators and assigns, shall pay to the grantee, his heirs and assigns, the annual sum of — dollars for every acre, and so in proportion for any less quantity than an acre of land, the surface whereof shall be appropriated or used for any of the purposes aforesaid, so long as such appropriation or use shall continue, and until the surface shall be restored as nearly as may be practicable to its original state and condition before such appropriation or use commenced.

Provided also that the workings of the said mines shall be conducted in such a manner as not to endanger any buildings now on the said lands, or which may be hereafter erected on the site of or within — yards of the site of any present building, and generally to do as little damage or injury to the surface of the said lands as shall be consistent with the proper working of the said mines.

Provided also that the grantor, his executors, administrators and assigns, shall pay to the grantee, his heirs and assigns, adequate compensation for all damage or injury which the grantee, his heirs or assigns, or his or their tenants may sustain by reason of the working of the said mines, or the exercise of any of the liberties or privileges hereby excepted and reserved.

*Benefit of restrictive covenants (n).*

Together with the benefit, so far as the grantor can assign the same, of all the covenants and conditions contained in an indenture dated the — day of — 19—, made between — and the grantor in respect of the user of the lands thereby conveyed and assigned.

*Habendum.*

To hold unto and to the use of the grantee, his heirs (o) and assigns (p).

(n) The benefit of restrictive covenants should be expressly conveyed (*Reynolds v. Conclishaw* (1878), 9 Ch. D. 125; (1879), 11 Ch. D. 866).

(o) By R.S.O. c. 119, s. 4, it is not necessary in a deed or other instrument, in the limitation of an estate, to use the word "heirs," or "heirs of the body," or "heirs male of the body," for the different estates. If no technical or descriptive words are used the whole interest or estate of the conveying party passes, unless the conveyance shows a contrary intention.

(p) In a grant of land to a corporation the word "successors" is not necessary, though usually inserted. The word "assigns" was and is superfluous and has no conveyancing significance (*Milman v. Lane*, 16 T.L.R. 568).

*Subject to a mortgage.*

And subject also to a certain mortgage made by — to —, to secure the sum of — dollars with interest thereon at — per cent per annum, which is a part of the hereinbefore mentioned consideration, and which the grantee hereby assumes and covenants to pay.

[If it is not intended that the purchaser shall assume the encumbrances, insert in lieu of the preceding paragraph the following:

And it is hereby expressly understood and agreed that the grantee assumes no personal responsibility and shall not be held liable to pay any charge or encumbrance upon the said lands, and that, as regards the grantee, the said lands alone shall be chargeable.]

*Covenant not to manufacture bricks, etc.*

Subject to the condition that [for a period of — years from the date hereof] no bricks, tiles or other articles manufactured from earth or clay are to be made or burned upon the land hereby conveyed, or any part thereof, and no part of the soil thereof shall be used or removed for such purpose; and the grantee, for himself, his heirs and assigns, covenants with the grantor, his executors, administrators and assigns, that the grantee will not make or burn, or permit or suffer to be made or burned by any person or persons at any time hereafter, any bricks, tiles or other articles manufactured from earth or clay upon the land hereby conveyed, and shall not use or remove, or permit or suffer to be used or removed, any part of the soil for such purpose.

*Party wall in conveyance of part of a lot.*

Subject also to and with the benefit of the following stipulations, that is to say: one-half of all foundations, stonework, walls and fences in the — boundary line between the said parcel and the parcel of land adjoining thereto belonging to the grantor, which may and shall be placed on each of the said parcels; and any owner of either of the said parcels using and enjoying any part of the said foundations, stonework, walls and fences built by the other shall pay for such part the actual

value of one-half of the said foundations, stonework, walls and fences to the owner thereof.

*Building restrictions.*

Subject to the building and other restrictions and conditions set out in the deed registered (q) as number —, or,

Subject to the building and other restrictions and conditions following [or, set out in the schedule hereto].

And it is declared and agreed that the said restrictions and conditions shall continue in force for the period of — years from —, and be binding upon and in respect of the land hereby conveyed for the benefit of and enforceable by the grantor and every other person seized or possessed of any part of the lands lying between — street and — street [or as the case may be] under or by virtue of any conveyance heretofore made by the grantor or his predecessors in title containing or subject to the like conditions or restrictions and the heirs and assigns of the grantor and of every other such person during the said period.

*Not to dig sand or gravel.*

That no sand or gravel shall at any time be excavated or dug out of the said lands except for the purpose of laying the foundations of buildings to be erected thereon, or for use in erecting such buildings or improving the garden or grounds thereof.

*Scope of covenants.*

These covenants [shall be in force for a period of — years from the — day of — 19—, but the said covenants] shall not be held personally binding upon the grantee or any of his assigns except in respect of breaches committed or continued during his or their joint or sole seisin of or title to the lands in respect of which such breaches shall have been committed.

*Statutory covenants.*

The grantor covenants with the grantee that he has the right to convey the said lands to the grantee notwithstanding any act of the grantor, and that the grantee shall have quiet

(q) This may be used where a deed prescribing building restrictions over a certain block of land has been registered.

possession of the said lands free from all incumbrances [save as aforesaid.] And the grantor covenants with the grantee that he will execute such further assurances of the said lands as may be requisite. And the grantor covenants with the grantee that he has done no act to incumber the said lands [save as aforesaid.] And the grantor releases to the grantee all his claims upon the said lands.

*Release of dower by wife.—Statutory.*

And the said —, wife of the grantor, hereby bars her dower (r) in the said lands.

*Release of dower by widow.*

[Where a widow is not herself the grantor, the following may be used.] And the said — [widow] grants and releases to the grantee all her dower, right, title and interest of, in, to or out of the said lands.

*Covenants to be binding on legal representatives.*

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

SCHEDULE

*Number and value of buildings.*

That not more than [two] dwelling houses [or one church] of the respective values hereinafter mentioned may be erected and standing at any one time upon each of the said lots shewn on the said plan number —, and the said houses shall be of neat design and shall be completed in a proper and workmanlike manner.

The said dwelling houses shall, when erected, be of not less than the following values, viz.: each house on — street — dollars, exclusive of any stable or out-buildings.

(r) See Appendix C, on Dower.

*Distance of buildings from street.*

That no building erected upon the said lands, except a boundary fence not more than — feet in height [made of materials and design approved by the grantor], shall be nearer than — feet from the centre line of — street on which the said lots front.

*Windows, etc., not to overlook grantor.*

That no window, door or opening shall at any time within — years from the date hereof be made on the — side of any building on the said lands so as to overlook the dwelling house and lands now in the occupation of the grantor.

*External walls of brick or stone.*

That no building or dwelling house shall be erected upon any part of the said lands the external walls of which are not of brick or stone, or part of one and the remainder of the other material.

*Restricted use of land and buildings.*

That no building erected or to be erected on any part of the said lands shall be used for any other purpose than that of a private dwelling [or church as aforesaid], but such dwelling may have outbuildings suitable or proper for a dwelling of the class or value thereof, *or*,

That the said lands, or any buildings to be erected thereon, shall not at any time be used for the purpose of any trade, manufacture or business of any description, or as a school, hospital or other charitable institution, or as an hotel or place of public resort [other than a church as aforesaid].

That no building shall at any time be erected or used on the said land for manufacturing purposes, and no manufacture or work of an offensive, dangerous or noisy kind shall be carried on upon the same, nor shall anything be done which may be or become an annoyance or nuisance to the grantor or to the neighborhood.

## QUIT CLAIM DEED.

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, of the first part, and — of the — of — in the county of —, —, of the second part.

WHEREAS [*recite facts explaining why conveyance is made*].

NOW THIS INDENTURE WITNESSETH that the said party of the first part, in consideration of — dollars to him now paid by [the said party of the second part] the receipt whereof is hereby acknowledged, doth hereby grant, release and quit claim unto the said party of the second part, his heirs and assigns, all estate, right, title, interest, claim and demand whatsoever, both at law and in equity or otherwise howsoever, and whether in possession or expectancy of him, the said party of the first part, of, in, to or out of all that certain parcel of land (*s*) situate, etc. together with the appurtenances thereto belonging or appertaining.

To hold the said lands and premises with all and singular the appurtenances thereto belonging or appertaining unto and to the use of the said party of the second part, his heirs and assigns, forever.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## CONVEYANCE UNDER POWER OF SALE.

## ON DEFAULT AFTER NOTICE GIVEN.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between — of the — of — in the county of —, —, hereinafter called the grantor, of the first part, and — of the — of — in the county of —, —, hereinafter called the grantee, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, made between — of —, of the first part, and — of —, of the second part [and — the wife of the said —, for the purpose of barring her dower, of the third part], the said —

(*s*) See note (*b*) on p. 334.



did grant and mortgage the lands hereinafter particularly described unto —, his heirs, executors, administrators and assigns, for securing payment of the sum of — dollars and interest as therein mentioned.

AND WHEREAS the said mortgage was expressed to be made in pursuance of the Act respecting Short Forms of Mortgages and contains the following proviso: Provided that the mortgagee, on default of payment for — months, may on — notice enter on and lease or sell the said lands.

AND WHEREAS default has been made in payment pursuant to the said proviso, and notice of the intention to sell the said lands has been duly given to the said — and to all persons appearing to have any interest in or claim upon the said lands.

AND WHEREAS the said lands, after being duly advertised for sale, were offered for sale at public auction on — day the — day of — 19—, at —.

AND WHEREAS the grantee was the highest bidder for and became the purchaser of the said lands at the said sale, at and for the sum of — dollars.

[If the auction sale was abortive, and the lands were afterwards sold by private contract, substitute for the above paragraph, AND WHEREAS at the said auction sale no sufficient bid was made for the said lands, and, default having continued, the grantor has since contracted with the grantee for the sale to him of the said lands for the sum of — dollars.]

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of — dollars (1) now paid by the grantee to the grantor (the receipt whereof is hereby acknowledged), the grantor doth grant unto the grantee in fee simple all that certain parcel of land situate etc.

To hold unto and to the use of the grantee, his heirs and assigns.

And the grantor covenants with the grantee that he has done no act to incumber the said lands.

And the grantor releases to the grantee all his claims upon the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(1) Where a mortgage is taken back for a portion of the purchase money, see the wording of "Conveyance of Land" on p. 337.

## CONVEYANCE UNDER POWER OF SALE.

BY A COMPANY—ON DEFAULT—WITHOUT NOTICE.

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting Short Forms of Conveyances, between the — Company, hereinafter called the company, of the first part, and — of the — of — in the county of —, —, hereinafter called the grantee, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, and made in pursuance of the Act respecting Short Forms of Mortgages, between — of the — of — in the county of —, —, of the first part; the company, of the second part; [and — the wife of the said —, for the purpose of barring her dower, of the third part,] the said —, in consideration of — dollars advanced and paid to him by the company, did grant and mortgage unto the company the lands hereinafter described, subject to a proviso for redemption upon payment of the said sum of money, interest and charges, as therein mentioned.

AND WHEREAS it was provided by the said mortgage that on default of payment for [two months] the company might without any notice enter upon and lease or sell the said lands.

AND WHEREAS the said — has made default in payment for [two months] and more, of the moneys secured by the said hereinbefore in part recited mortgage.

AND WHEREAS the company under and by virtue of the hereinbefore recited power of sale did, on the — day of — 19—, offer the said lands for sale by public auction at the — of — in the county of —, and at the said sale the said lands were sold to the said — for the sum of — dollars, he being declared the highest bidder therefor. [*If the auction sale was abortive, and the lands were subsequently sold by private contract, substitute, at the said sale no sufficient bid was made for the said lands and, default having continued, the company has since contracted with the grantee for the sale to him of the said lands for the sum of — dollars.*]

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of — dollars now paid by the grantee to the company (the receipt whereof is hereby acknowledged), the

company doth grant unto the grantee, in fee simple, all that certain parcel of land situate, etc.

To hold unto and to the use of the grantee, his heirs and assigns [subject to any unpaid taxes, rates, or assessments due or accruing due in respect of the said lands.]

The company covenants with the grantee that there has been default made for [two months] in payment of the moneys mentioned in the hereinbefore in part recited mortgage; and that the company has done no act to incumber the said lands.

[Where a mortgage is taken back for a portion of the purchase money add, Provided that the acceptance by the company of the mortgage (hereinbefore secondly referred to) to secure the unpaid balance of the purchase money of the said lands shall not prejudice the lien of the company on the said lands for the said balance, but the said lien shall exist in full force until the said balance and interest is fully paid (u).]

IN WITNESS whereof the said parties have hereunto set their corporate seal and hand and seal respectively.

SIGNED, SEALED, etc. (v)

### CONVEYANCE BY ADMINISTRATOR

UNDER "THE DEVOLUTION OF ESTATES ACT"<sup>(w)</sup>.

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting Short Forms of Conveyances, and of The Devolution of Estates Act, between X.Y., of the — of — in the county of —, —, the administrator [or, administratrix] of the estate of E.F., late of the — of — in the county of —, —, deceased, hereinafter called the grantor, of the first part, and M.N. of the — of — in the county of —, —, hereinafter called the grantee, of the second part.

WHEREAS the said E.F. died on or about the — day of — 19—, intestate, and letters of administration of his estate and effects were granted to the said X.Y. by the Surrogate Court of the county of — on the — day of — 19—.

(u) See also wording in "Conveyance of Land," on p. 337.

(v) See Appendix A, for form of attestation.

(w) R.S.O. c. 127, ss. 4, 9, 13, 16; Ont. 1902, c. 17.

AND WHEREAS the said E.F. was, at the time of his decease, seised and possessed of the lands hereinafter described.

AND WHEREAS, for the purpose of administering the said estate, it is necessary to sell the said lands.

*[If the conveyance is made after the expiration of three years from the death of the deceased, recite here the filing of the caution (x) by the administrator; see clause on p. 352.]*

NOW THIS INDENTURE WITNESSETH that, in pursuance of the powers vested in him, the grantor as personal representative of the said E.F., deceased, and in consideration of the sum of — dollars to him paid by the grantee (the receipt whereof is hereby acknowledged) doth grant unto the grantee, in fee simple, all that certain parcel of land, situate, etc.

To hold (y) unto the grantee, his heirs and assigns, to and for his and their sole and only use forever.

And the grantor covenants with the grantee that he has done no act to incumber the said lands.

And the grantor releases to the grantee all his claims upon the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### CONVEYANCE BY ADMINISTRATOR

UNDER "THE DEVOLUTION OF ESTATES ACT" (w).

#### HEIRS JOINING.

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting Short Forms of Conveyances and of The Devolution of Estates Act, between X.Y. of —, the administrator *[or, administratrix]* of the estate of E.F., late of —, deceased, hereinafter called the grantor, of the first part; A.B. and C.D. of the second part; [K.F. of —, widow of the said E.F., of the third part;] and M.N., of —, hereinafter called the grantee, of the fourth part.

WHEREAS the said E.F. died on or about the — day of — 19—, intestate, and letters of administration of his estate

(x) For form, see under "Notices."

(y) See note (c) on p. 334.

and effects were granted to the said X.Y. by the Surrogate Court of the county of — on the — day of — 19—.

AND WHEREAS the said E.F. was, at the time of his death, seised and possessed of the lands hereinafter described.

AND WHEREAS, for the purpose of administering the estate of the said deceased, it is necessary to sell the said lands.

[*or, AND WHEREAS, for the purpose of dividing the estate among the persons entitled thereto, it is desirable that the lands of the deceased, hereinafter described, should be sold.*]

[*If the conveyance is made after three years from the date of the death of the deceased, add, AND WHEREAS the grantor duly registered in the registry office of the registry division in which the said lands are situate a caution (z) certifying that it might be necessary for him, under his powers and in fulfilment of his duties as administrator, to sell the real estate of the said E.F., or part thereof, and which caution was duly renewed from time to time and continues still in force.*]

AND WHEREAS the grantor has agreed to sell the said lands to the grantee for the price hereinafter mentioned.

AND WHEREAS the said A.B. and C.D. are the only children of the said E.F. and they and the said K.F. being all the heirs of the said E.F. [except H.F., of —,] have consented to and concurred in the sale by the said administrator of the said lands.

[AND WHEREAS the said H.F. is a person of unsound mind, [*or, an infant*] and the official guardian has, upon her behalf, consented to and approved of the said sale, as is evidenced by his consent and approval thereof written in the margin hereof.]

AND WHEREAS all persons concerned or interested in the said lands are of the full age of twenty-one years [*or as the case may be*].

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum of — dollars now paid by the grantee to the grantor, the receipt whereof is hereby by him acknowledged [*or if the sale is made subject to lien reserved and mortgage to be given, see form on p. 686*] the grantor doth grant unto the grantee, in fee simple, all that certain parcel of land situate, etc.

(z) For form, see under "Notices." \*

To hold unto and to the use of the grantee, his heirs and assigns.

And the grantor covenants with the grantee that he has done no act to incumber the said lands.

And the grantor releases to the grantee all his claims upon the said lands.

[And each of the parties of the second part releases to the grantee all his claims upon the said lands.]

[And K.F., widow of the said E.F., releases to the grantee all her claims upon the said lands.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### CONVEYANCE BY ADMINISTRATOR

TO HEIR AT LAW.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between A.B. of — [administrator], of the one part, and C.D. of — [heir at law], of the other part.

WHEREAS E.F., late of —, was in his lifetime the owner in fee simple of the lands hereinafter described and died intestate on the — day of — 19—.

AND WHEREAS letters of administration of his estate were, on the — day of — 19—, granted to the said A.B. by the Surrogate Court of the county of —.

AND WHEREAS the said C.D. claims to be beneficially entitled to the said lands as heir at law of the said E.F., and the said C.D. has requested the said A.B. to convey the said lands to him, and the said lands not being required to be otherwise dealt with by the said A.B. as such administrator he has agreed to convey the same.

NOW THIS INDENTURE WITNESSETH that in pursuance of such request and in consideration of the premises and of one dollar now paid by the said C.D. to the said A.B., the receipt whereof is hereby acknowledged, the said A.B. as administrator of the said E.F. doth grant unto the said C.D., in fee simple, all that certain parcel of land, situate, etc.

To hold unto and to the use of the said C.D., his heirs and assigns.

And the said A.B. covenants with the said C.D. that he has done no act to incumber the said lands.

And the said A.B. releases to the said C.D. all his claims upon the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### CONVEYANCE BY EXECUTOR

UNDER "THE DEVOLUTION OF ESTATE ACT" (a).

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting Short Forms of Conveyances, and of The Devolution of Estates Act, between X.Y. of the — of — in the county of —, —, the executor [*or*, executrix] of the will of E.F., late of the — of — in the county of —, —, deceased, hereinafter called the grantor, of the first part, and M.N. of the — of — in the county of —, —, hereinafter called the grantee, of the second part.

WHEREAS the said E.F. died on or about the — day of — 19—, having duly made his last will and testament, probate whereof was granted to the said X.Y. as executor [*or*, executrix] thereof by the Surrogate Court of the county of — on the — day of — 19—.

AND WHEREAS the said E.F. was, at the time of his decease, seised and possessed of the lands hereinafter described.

AND WHEREAS for the purposes of administering the estate of the said E.F. it is necessary to sell the said lands.

[*If the conveyance is made after the expiration of three years from the death of the testator, recite here the filing of the caution (b) by the executor. See clause on p. 352.*]

NOW THIS INDENTURE WITNESSETH that, in pursuance of the powers vested in him, the grantor, as personal representative of the said E.F., deceased, in consideration of the sum of — dollars to him paid by the grantee (the receipt whereof is hereby

(a) R.S.O. c. 127, ss. 4, 9, 13, 16; Ont. 1902, c. 17.

(b) For form, see under "Notices."

acknowledged), doth grant unto the grantee, in fee simple, all that certain parcel of land, situate, etc.

To hold (*c*) unto the grantee, his heirs and assigns, to and for his and their sole and only use forever.

And the grantor covenants with the grantee that he has done no act to incumber the said lands.

And the grantor releases to the grantee all his claims upon the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### CONVEYANCE BY EXECUTOR

UNDER "THE DEVOLUTION OF ESTATES ACT" (*d*).

#### DEVISEES JOINING.

THIS INDENTURE made the — day of — 19—, in pursuance of The Act respecting Short Forms of Conveyances and of The Devolution of Estates Act, between X.Y. of —, the executor [*or*, executrix] of the will of E.F., late of —, deceased, hereinafter called the grantor, of the first part; A.B. and C.D. of the second part; [K.F., of —, widow of the said E.F., of the third part;] and M.N., of —, hereinafter called the grantee, of the [fourth] part.

WHEREAS the said E.F. died on or about the — day of — 19—, having duly made his last will and testament, probate whereof was granted to the said X.Y. as executor thereof by the Surrogate Court of the county of — on the — day of — 19—.

AND WHEREAS the said E.F. was at the time of his death seised and possessed of the lands hereinafter described.

AND WHEREAS for the purpose of payment of the debts and legacies of the said deceased it is necessary to sell the said lands.

[*or*, AND WHEREAS, for the purpose of dividing the estate among the persons entitled thereto, it is desirable that the lands of the testator, hereinafter described, should be sold.]

(*c*) See note (*c*) on p. 334.

(*d*) R.S.O. c. 127, ss. 4, 9, 13, 16; Ont. 1902, c. 17.



[If the conveyance is made after three years from the date of the death of the deceased add, AND WHEREAS the grantor duly registered in the registry office of the registry division in which the said lands are situate a caution (c) certifying that it might be necessary for him under his powers and in fulfilment of his duties as executor to sell the real estate of the said E.F., or part thereof, and which caution was duly renewed from time to time and continues still in force.]

AND WHEREAS the grantor has agreed to sell the said lands to the grantee for the price hereinafter mentioned.

AND WHEREAS the said A.B., C.D. and K.F., being all the devisees under the will of the said E.F. have consented to and concurred in the sale by the said executor of the said lands.

[AND WHEREAS the said C.D. is a person of unsound mind, [or, an infant] and the official guardian has, upon her behalf, consented to and approved of the said sale, as is evidenced by his consent and approval thereof written in the margin hereof.]

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum of — dollars now paid by the grantee to the grantor, the receipt whereof is hereby by him acknowledged, [or if the sale is made subject to lien reserved and mortgage to be given, see form on page 334] the grantor doth grant unto the grantee, in fee simple, all that certain parcel of land, situate, etc.

To hold unto and to the use of the grantee, his heirs and assigns.

And the grantor covenants with the grantee that he has done no act to incumber the said lands.

And the grantor releases to the grantee all his claims upon the said lands.

And each of the parties of the second part releases to the grantee all his claims upon the said lands.

[And K.F., widow of the said E.F., releases to the grantee all her claims upon the said lands.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

(c) For form, see under "Notices."

## CONVEYANCE BY EXECUTOR OR TRUSTEE

## TO DEVISEE.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between A.B. of — [executor and trustee (*f*)], of the one part, and C.D. of — [devisee], of the other part.

WHEREAS E.F., late of —, was in his lifetime the owner in fee simple of the lands hereinafter described, and died on or about the — day of — 19—, having duly made his will, dated the — day of — 19—, whereby he devised [*follow the words of the devise to C.D.*] and whereby also he appointed the said A.B. executor and trustee of his said will.

AND WHEREAS probate of the said will was, on the — day of — 19—, granted to the said A.B. by the Surrogate Court of the county of —,

AND WHEREAS the said C.D. as such devisee as aforesaid has requested the said A.B. as such executor and trustee of the said E.F. to convey the said lands to him.

NOW THIS INDENTURE WITNESSETH that in pursuance of such request and in consideration of the premises and of one dollar to him paid by the said C.D. (the receipt whereof is hereby acknowledged), the said A.B. as executor of the said E.F. and as trustee (*f*) doth grant unto the said C.D., in fee simple, all that certain parcel of land, situate, etc.

To hold unto and to the use of the said C.D., his heirs and assigns [subject to the payment of, etc., *if there are any charges against the land, or payments to be assumed and made by the devisee, as the case may be*].

And the said A.B. covenants with the said C.D. that he has done no act to incumber the said lands.

And the said A.B. releases to the said C.D. all his claims upon the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(*f*) When a conveyance is made to a devisee by the personal representative within three years after the testator's death the conveyance should properly be made by him as executor, after the three years have expired he should convey as trustee only; but for greater certainty and to obviate the necessity of ascertaining whether or not the three years have elapsed it will be better to have him convey both as trustee and executor.

## CONVEYANCE BY TRUSTEES.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between — of — and — of —, hereinafter called the trustees, of the first part, and — of —, hereinafter called the purchaser, of the second part.

WHEREAS — of — died on or about the — day of — 19—, having made his will dated the — day of — 19—, whereby he devised [inter alia,] the hereditaments hereinafter described, to the said trustees, upon trust to sell and convey the same.

AND WHEREAS by his said will he appointed as executors thereof the trustees above named, who duly proved the said will on the — day of — 19—, in the Surrogate Court of the county of —.

AND WHEREAS, pursuant to the trust for such purpose contained in the said will, the trustees have agreed to sell the lands hereinafter described to the purchaser at the price of — dollars.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars, now paid by the purchaser to the trustees (the receipt of which the trustees hereby acknowledge), the trustees hereby grant unto the purchaser, in fee simple, all that certain parcel of land, situate, etc.

To hold (*g*) unto the purchaser, his heirs and assigns, to and for his and their sole and only use forever.

And the trustees covenant with the purchaser, his heirs, executors, administrators and assigns, that they have done no act to incumber the said lands.

And the trustees release to the purchaser all their claims upon the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(*g*) See note (*c*) on p. 334.

## CONVEYANCE BY DEVISEE.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between A.B. of —, hereinafter called the grantor, of the first part; C.D., widow of D.D., deceased, of the second part; E.B., wife of the grantor, of the third part; and F.G. of —, hereinafter called the grantee, of the fourth part.

WHEREAS D.D. died on or about the — day of — 19—, seised of the lands hereinafter mentioned, which lands by his last will and testament duly executed [and which has been duly proved in the Surrogate Court of the county of —, *if such be the case*] he devised to the grantor, and the said C.D. is the lawful widow of the said D.D. deceased.

AND WHEREAS no caution certifying that it might be necessary for him under his powers and in fulfillment of his duties as executor to sell the said lands has been registered by the executor of the said will.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars of lawful money of Canada now paid by the grantee to the grantor (the receipt whereof is hereby by him acknowledged) he, the grantor, doth grant and the said C.D. doth release unto the grantee, in fee simple, all that certain parcel of land, situate, etc.

To hold [*continue as on p. 336 to end of form*].

## CONVEYANCE BY HEIRS AT LAW.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between I.B. of —, widow (x) of H.B., deceased, A.B. of —, C.B. of —, and D.B. of —, hereinafter called the grantors, of the first part; E.B. wife of the said A.B., F.B. wife of the said C.B., and G.B. wife of the said D.B., of the second part; and —, hereinafter called the grantee, of the third part.

(x) It is a question whether under the Devolution of Estates Act the widow of an intestate should not be recognized as an heir at law as well as the children. Authorities will doubtless disagree upon this point, but it has been deemed safer to make the widow a party of the first part and recognize her as an heir at law. No objection can be taken to this.

WHEREAS the said H.B. died on or about the — day of — 19—, intestate, leaving him surviving his widow the said I.B. and the said A.B., C.B. and D.B. the grantors his only heirs at law [*Add particulars of descent or relationship so as to establish the facts upon which the claim to be the only heirs at law is founded, as e.g. "the only children of the said H.B. who survived him, and there being no children of any deceased child of the said H.B.,"* or as the case may be.]

AND WHEREAS no caution certifying that it might be necessary for him under his powers and in fulfillment of his duties as administrator to sell the real estate of the said H.B. has been registered, so as to affect the said lands, by any administrator of the estate and effects of the said H.B.

AND WHEREAS the said grantors are all of full age.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars of lawful money of Canada now paid by the grantee to the grantors (the receipt whereof is hereby by them acknowledged) the grantors do grant and the said I.B. doth release unto the grantee, in fee simple, all that certain parcel of land situate, etc.

To hold [*continue as on p. 336 to end of form*].

## PARTITION.

BETWEEN DEVISEES OR CO-HEIRS, ONE OF WHOM PAYS A SUM  
FOR EQUALITY OF PARTITION.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between — of the — of — in the county of —, —, executor of the last will and testament [*or, administrator of the estate and effects*] of —, deceased, of the first part; — of — [*one co-devisee or co-heir, as the case may be*], of the second part; — of — [*another co-devisee or co-heir*], of the third part; and — of — [*another co-devisee or co-heir*], of the fourth part.

WHEREAS the said — [*deceased*], being seized in fee or otherwise well entitled to the lands hereinafter mentioned, died on or about the — day of — 19—, having made his will dated the — day of — 19—, wherein he appointed the

party of the first part the executor thereof, and probate of the said will was granted to the party of the first part by the Surrogate Court of the county of — on the — day of — 19—.

AND WHEREAS the said testator by his said will devised and bequeathed his whole estate, real and personal, to his said executor upon trust for the purposes of his said will, and, subject to certain pecuniary legacies which have been paid or provided for, directed that the remainder of his estate should be divided equally among the parties of the second, third and fourth parts [*or as the case may be*].

*[If the deceased died without a will, substitute for the two preceding paragraphs the following.*

WHEREAS the said [*deceased*] being seized in fee or otherwise well entitled to the lands hereinafter mentioned, died on or about the — day of — 19—, intestate, and letters of administration of the estate of the said deceased were granted to the party of the first part by the Surrogate Court of the county of — on the — day of — 19—.]

AND WHEREAS the said lands form part of the said residuary estate, and the parties of the second, third and fourth parts [*or, if no will*, AND WHEREAS the parties of the first, second and fourth parts, being the only heirs at law of the said — [*deceased*] and the persons entitled to the said lands,] have agreed upon a division thereof in manner following, that is to say: that the party of the second part shall take the lands firstly hereinafter described, and that the party of the third part shall take the lands secondly hereinafter described, and that the party of the third part shall take the lands thirdly hereinafter described [*or as the case may be*].

AND WHEREAS it has been agreed that the party of the third part should pay for equality of partition the sum of — dollars to the party of the fourth part [*or as the case may be*].

NOW THIS INDENTURE WITNESSETH that in consideration of the premises the parties of the first, third and fourth parts, according to their respective estates and interests, do grant and release unto the party of the second part in fee simple, all that certain parcel of land, situate, etc.

To hold (*h*) unto the party of the second part, his heirs and assigns, to and for his and their sole and only use forever.

And each of the parties of the first, third and fourth parts covenants with the party of the second part that he will execute such further assurances of the said lands as may be requisite.

And each of the parties of the first, third and fourth parts respectively covenants with the party of the second part that he has done no act to incumber the said lands.

AND THIS INDENTURE further witnesseth [*insert similar conveyance by the other parties to each one of the lands allotted to him, with similar covenants, inserting money consideration when one is to be paid*].

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### GRANT OF RIGHT OF WAY (*i*).

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the grantor, of the one part, and — of the — of — in the county of —, —, hereinafter called the grantee, of the other part.

WITNESSETH that in consideration of the sum of — dollars now paid by the grantee to the grantor (the receipt whereof is hereby acknowledged) the grantor doth hereby grant and convey unto the grantee, his heirs and assigns, and his and their agents, servants and workmen, [and all other persons] a free and uninterrupted right of way (*j*), ingress and egress for persons, animals and vehicles, through, along and over that certain parcel of land described as follows, viz., from — to — (*k*), as is more particularly shown on the plan hereto annexed.

(*h*) See note (*c*) on p. 334.

(*i*) See also clause on p. 339.

(*j*) Rights of way may be created by grant, express or implied, and by prescription or user.

(*k*) It is important that not only should the land over which the right of way passes be particularly described, but also that the terminal points of the right of way be clearly indicated, otherwise the grant may be held void for uncertainty.

And the grantee, for himself, his heirs and assigns, covenants with the grantor, his heirs and assigns, that the grantee will at his own expense, keep the said way in proper repair and condition [and also the gate erected by the grantor across the said way at the [north] end or extremity thereof, and the lock and fastening thereof, and will from time to time and at all times hereafter, at the like expense of the grantee, repair and renew the fence on both sides of the said way; and also that the grantee and his agents and servants will, if and whenever and so long as the grantor, his heirs or assigns, or the owner or owners for the time being of the lands adjoining the said way shall so require, immediately after having used and passed through the said gate, shut and lock the same].

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### CONVEYANCE OF TIMBER.

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, herein-after called the vendor, of the first part, and — of the — of — in the county of —, —, hereinafter called the purchaser, of the second part.

WITNESSETH that the vendor in consideration of the payments hereinafter mentioned to be made to him doth hereby grant, bargain, sell and assign to the purchaser all the [pine] trees and timber now standing, growing, lying or being in and upon that certain parcel of land, situate, etc., containing by ad-measurement — acres, more or less.

To hold the said trees and timber and every part thereof to the purchaser to and for his sole and only use; provided, however, that the purchaser removes the same within — [years] from the date hereof, after which date all trees or timber not removed shall revert to and be and become the property of the vendor.

Provided that the purchaser, his servants, agents and workmen, shall at all times within — [years] from the date hereof have full and free liberty of entry and right of way through, over and upon the said lands for the purpose of felling, cutting down and carrying away the said trees and timber in such a manner as



he or they shall think fit, and also to place and dry the bark of the said trees on any part of the said lands, and with full liberty to bring horses, oxen or other animals, wagons, sleighs or other vehicles, in and upon the said lands for the purposes aforesaid.

And the purchaser covenants with the vendor that he will pay to him the sum of — dollars as follows, that is to say:—.

And that the purchaser will fell, cut down and carry away the said trees and timber, with the boughs and bark thereof, before the — day of — 19—, and in so doing will do as little injury or damage as possible to the grass, crops and other property of the vendor, and will also make compensation to the vendor for all injury or damage so done, and that he will repair all fences and hedges upon the said lands which shall have been injured in so felling, cutting down and conveying away the said trees.

And that the vendor shall have the full and free use and enjoyment of the said lands during the said period of — without any interruption on the part of the purchaser or his workmen, servants or agents, save in so far as may be necessary for the cutting and removing of the said trees and timber.

And it is hereby agreed that in case any dispute shall arise between the parties hereto with regard to the sale of the said timber or to the compensation to be made for any injury or damage caused as aforesaid, such dispute shall be determined by two arbitrators, one to be chosen by each of the said parties, and, if such two arbitrators shall not agree, then a third arbitrator shall be chosen by the said two arbitrators, and his decision shall be conclusive on both parties. If, however, either party shall neglect or fail to appoint an arbitrator within — days after having been so requested by the other party, then the arbitrator appointed by the other party may proceed alone, and his award shall be conclusive on both parties.

And the vendor covenants with the purchaser that he has a good title in fee simple to the said lands, and has full right, power and authority to sell and dispose of the said timber and trees, and that they are free from all incumbrances of every kind whatsoever.

And it is hereby agreed that these presents and everything herein contained shall respectively enure to the benefit of and

be binding upon the parties hereto, their heirs, executors, administrators and assigns respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### GRANT OF ANNUITY

#### CHARGED ON LAND.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the grantor, of the first part; — of —, hereinafter called the grantee, of the second part; — of —, hereinafter called the trustee of the third part [and — of —, wife of the grantor, of the fourth part].

WITNESSETH that in consideration of —, and of the sum of — dollars now paid by the grantee to the grantor (the receipt whereof is hereby acknowledged), the grantor doth grant to the grantee, for the term of his natural life, an annuity of — dollars, to commence and to be computed from and to be charged upon and issuing and payable out of all that certain parcel of land, situate, etc., which said annuity shall be deemed to accrue from day to day, but shall be paid in equal [quarterly] payments on the [first] days of — and — after the date hereof, the first of such payments to be made on the [first] day of — 19—.

And the grantor covenants with the grantee that the grantor will pay to the grantee, during his life, the said annuity on the days and in the manner aforesaid.

Provided that the grantee shall release the said lands from the said annuity and all charges thereunder at any time on payment to him of all arrears of the said annuity, and the sum of — dollars to the trustee, which said sum shall be held by the trustee upon trust to invest the same and pay the income thereof to the grantee during the term of his natural life, and on his decease to forthwith pay over such sum, or transfer the securities therefor to the grantor.

And it is hereby agreed that if default shall be made in the payment of the said annuity or any part thereof for the space of — days next after any of the days hereinbefore appointed for the payment thereof, then and at any time thereafter the

grantee may enter upon the said lands or any part thereof and distrain, and the distress and distresses then and there found, take, lead, drive, carry away and impound, and the same to hold and keep until the said annuity and the arrears thereof (if any), together with all costs and charges incurred by such distress or in the obtaining payment of the said annuity, shall be fully paid and satisfied.

And it is further agreed that if default shall be made for the space of — days in the payment of any sum hereby secured, the grantee may forthwith sell the said lands or any part thereof, either by public auction or private contract, as the grantee shall deem proper, and may buy in, rescind or vary any contract for the sale and resale, without being responsible for any loss occasioned thereby, and may convey the same to the purchaser or purchasers in fee simple; and the grantor hereby constitutes the grantee, his executors, administrators and assigns, the attorney and attorneys irrevocable by death or otherwise of him, the grantor, his heirs or devisees, executors or administrators, to make such conveyance or conveyances; [and the said — hereby constitutes the grantee, his executors, administrators or assigns, her attorney and attorneys irrevocable to bar her dower in the said lands:] provided, however, that such power of sale shall not be exercised until after — months previous notice in writing shall have been given to the grantor (either by delivery to him or by delivery to a grown-up person upon the said lands or posting up thereon, if vacant,) and that the grantor do not, before the making of a sale, pay the amount in default, with interest thereon, and the cost of such notice and proceedings for sale.

And it is agreed that upon any such sale purporting to be made in pursuance of the aforesaid power no purchaser shall be bound to inquire whether any default has been made, or as to the propriety or regularity of such sale, and notwithstanding any impropriety or irregularity in such sale it shall, as regards the purchaser or purchasers be deemed within the aforesaid power and be valid accordingly, and the remedy (if any) of the purchaser in respect of any impropriety or irregularity in any such sale, shall be in damages only, and the purchaser or purchasers at any such sale shall not be required to see to the application

of the proceeds of the sale or be accountable for any loss or misapplication thereof.

And it is hereby further agreed that the grantee shall apply the moneys which shall arise from any such sale as aforesaid, in the first place, in payment of the expenses incurred in and about such sale or otherwise in relation to the premises, and in the next in or towards satisfaction of the moneys for the time being owing on the security of these presents, and then in or towards the payment of the sum of — dollars to the trustee, to be held by the trustee on the trusts set out above, and then pay the surplus (if any) unto the grantor, or as he shall direct.

[And the said —, wife of the grantor, in consideration of the premises, hereby covenants with the grantee that the charge hereby created is and shall be a charge upon the said lands prior to all dower and thirds which, in the event of surviving her said husband, she shall have in the said lands.]

And it is hereby agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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# COPYRIGHTS.

## THE COPYRIGHT ACT.

(R.S.C., c. 62.)

### *Statutes.*

The following statutes of Canada have amended "The Copyright Act," viz:—1889, c. 29; 1890, c. 12; 1891, c. 34; 1895, c. 37; of these c. 29 of 1889 and ss. 3 and 4 of c. 37 of 1895 are not in force (*a*).

### *Who may obtain a copyright.*

Any person domiciled in Canada or in any part of the British possessions, or any citizen of any country which has an international copyright treaty with the United Kingdom, who is the author of any book, map, chart or musical composition, or of any original painting, drawing, statue, sculpture or photograph, or who invents, designs, etches, engraves or causes to be engraved, etched or made from his own design, any print or engraving, and the legal representatives of such person or citizen, shall have the sole and exclusive right and liberty of printing, reprinting, publishing, reproducing and vending such literary, scientific or artistic works or compositions, in whole or in part, and of allowing translations to be printed or reprinted and sold, of such literary works from one language into other languages, for the term of twenty-eight years from the time of recording the copyright thereof in the manner hereinafter directed. (R.S.C., c. 62, s. 4.)

### *Conditions for obtaining.*

The condition for obtaining such copyright shall be that the said literary, scientific or artistic works shall be printed and published or reprinted and republished in Canada, or in the case of works of art that they shall be produced or reproduced in Canada, whether they are so published or reproduced

(*a*) S. 7 of c. 29 of 1889 provides that that Act shall only come into force on a day to be named by proclamation of the Governor General. This proclamation has never been made owing to a conflict with the Imperial authorities. As ss. 3 and 4 of c. 37 of 1895 amend the Act of 1889, these sections also are not in force.

for the first time, or contemporaneously with or subsequently to publication or production elsewhere; but in no case shall the said sole and exclusive right and liberty in Canada continue to exist after it has expired elsewhere.

No immoral, licentious, irreligious, or treasonable or seditious literary, scientific or artistic work, shall be the legitimate subject of such registration or copyright. (ib. s. 5.)

*Interim copyright.*

The author of any literary, scientific or artistic work, or his legal representatives, may, pending the publication or republication thereof in Canada, obtain an interim copyright therefor by depositing at the department a copy of the title or a designation of such work, intended for publication or republication in Canada, to secure to such author aforesaid, or his legal representatives, the exclusive rights recognized by this Act, previous to publication or republication in Canada—but such interim registration shall not endure for more than one month from the date of the original publication elsewhere, within which period the work shall be printed or reprinted and published in Canada, and notice of such registration shall be inserted once in the Canada Gazette. (ib. s. 13.)

*Temporary copyright.*

Any literary work intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical, may be registered under this Act while it is so preliminarily published, if the title of the manuscript and a short analysis of the work are deposited at the department, and if every separate article so published is preceded by the words "Registered in accordance with the Copyright Act," but the work, when published in book or pamphlet form, shall be subject, also, to the other requirements of the Act. (ib. s. 7.)

*Deposit of books, descriptions, etc.*

No person shall be entitled to the benefit of the Act unless he has deposited at the department three copies of each book, map, chart, musical composition, photograph, print, cut or engraving to be copyrighted, and, in the case of paintings, drawings, statuary and sculpture, unless he has furnished a written

description of such works of art, and unless he inserts in the several copies of every edition published during the term secured, on the title-page, or on the page immediately following, if it is a book, or, if it is a map, chart, musical composition, print, cut, engraving or photograph, by impressing on the face thereof, or if it is a volume of maps, charts, music, engravings or photographs upon the title-page or frontispiece thereof, the words, "Entered according to Act of the Parliament of Canada, in the year 19—, by A.B., at the Department of Agriculture;" but as regards paintings, drawings, statuary and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship. (ib. ss. 9, 12; 1895, c. 37, s. 1.)

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#### EXTRACTS FROM RULES OF THE OFFICE OF THE REGISTRAR OF COPYRIGHTS.

(Order in Council of April 12th, 1887.)

##### *Documents and communications.*

All papers are to be clearly and neatly written on foolscap paper, and every word is to be distinctly legible (Rule 4). A sufficient margin should be left on every paper, and specially on specifications and assignments for the insertions of references or certificates and for the affixing of the seal thereto.

All copies of books deposited for the purpose of being copyrighted must either have board covers or be full bound, and all copies of maps deposited must be mounted (Rule 5.).

All communications are to be addressed "To the Minister of Agriculture (Copyright Branch), Ottawa" (Rule 6.).

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#### APPLICATION FOR COPYRIGHT.

##### APPLICATION FOR REGISTRATION BY PROPRIETOR.

(Can. 1889, c. 29, s. 1.)

To the Minister of Agriculture,  
(Copyright Branch,) Ottawa.

I [name of person] domiciled in [if in Canada state the place and province, if in any other part of the British possessions state the place, or if a citizen of any country which has an international

*copyright treaty with the United Kingdom in which Canada is included, state the country*], hereby declare that I am the proprietor [or, the legal representative of the proprietor] of the [book, map, chart, musical, or, literary composition, original painting, drawing, statue, sculpture, photograph, print, or, engraving, *as the case may be*], called [*title or name as the case may be*], and that the said [book, map, etc., *as the case may be*] has been printed and published [or, produced] in Canada by [*name of the publisher thereof*] in the [*name of the place where published*] in the province of —, and I hereby request the registration of the said [book, map, etc.], and for that purpose I herewith forward the fee required by The Copyright Act, together with three copies of the [book, map, etc., *as the case may be*. If the object is a painting, sculpture, or other work of art, a written description of such work of art is sufficient.]

IN TESTIMONY whereof I have signed in the presence of the two undersigned witnesses.

Dated at — the — day of — 19—.

WITNESS.

[Signatures of two witnesses.]

[Signature of proprietor.]

### APPLICATION FOR COPYRIGHT.

APPLICATION FOR REGISTRATION BY AGENT OF PROPRIETOR.

(Can. 1889, c. 29, s. 1.)

To the Minister of Agriculture,  
(Copyright Branch,) Ottawa.

THE undersigned, resident in the [*give the name of the place and province where the agent resides*] being the agent authorized by [*name of the proprietor*] who is domiciled in [*if in Canada or in any part of the British possessions, state the place, or if a citizen of any country which has an international copyright treaty with the United Kingdom in which Canada is included, state the country*] hereby declare that [*name of the proprietor*] is the proprietor of the [book, map, chart, etc., *as the case may be*], called [*title or name, as the case may be*] and that the said [book, map, chart, etc., *as the case may be*] has been printed and published [or, produced] in Canada by [*name of the publisher thereof*] in the [*name*



*of the place where published]* in the province of —, and I hereby request the registration of the said [book, map, etc.] and for that purpose I herewith forward the fee required by The Copyright Act, together with three copies of the [book, map, etc., as the case may be. *If the object is a painting, sculpture or any other work of art, a written description of such work of art is sufficient.*]

IN TESTIMONY whereof I have signed in the presence of the two undersigned witnesses.

Dated at — the — day of — 19—.

WITNESS.

[Signatures of two witnesses.]} [Signature of agent of proprietor.]

## APPLICATION FOR TEMPORARY COPYRIGHT.

APPLICATION FOR REGISTRATION BY PROPRIETOR.

(R.S.C., c. 62, s. 7.)

To the Minister of Agriculture,

(Copyright Branch,) Ottawa.

I [name of person] domiciled in [if in Canada state the place and province, if in any other part of the British possessions state the place, or if a citizen of any country which has an international copyright treaty with the United Kingdom in which Canada is included, state the country] hereby declare that I am the proprietor [or, the legal representative of the proprietor] of the [book, story, novel, etc., as the case may be] called [title or name] which is now being preliminarily published in separate articles in the [state the name, place and province of the newspaper or periodical in which the work is being published] and I hereby request the privilege of a temporary copyright for the said work in accordance with the terms of The Copyright Act, and for that purpose I herewith forward the fee required by the Act, together with a short analysis of the said work.

IN TESTIMONY whereof I have signed in the presence of the two undersigned witnesses.

Dated at — the — day of — 19—.

WITNESS.

[Signatures of two witnesses.]} [Signature of proprietor.]

## APPLICATION FOR TEMPORARY COPYRIGHT.

APPLICATION FOR REGISTRATION BY AGENT OF PROPRIETOR.

(R.S.C., c. 62, s. 7.)

To the Minister of Agriculture,

(Copyright Branch,) Ottawa.

THE undersigned, resident in the [*give the name of the place and province where the agent resides*] being the agent authorized by [*name of the proprietor*] who is domiciled in [*if in Canada or in any part of the British possessions, state the place, or if a citizen of any country which has an international copyright treaty with the United Kingdom in which Canada is included, state the country*] hereby declare that [*name of the proprietor*] is the proprietor of the [book, story, novel, etc., as the case may be] called [*title or name*] which is now being preliminarily published in separate articles in the [*state the name, place and province of the newspaper or periodical in which the work is being published*] and I hereby request the privilege of a temporary copyright for the said work in accordance with the terms of The Copyright Act, and for that purpose I hereby forward the fee required by the Act, together with a short analysis of the said work.

IN TESTIMONY whereof I have signed in the presence of the two undersigned witnesses.

Dated at — the — day of — 19—.

WITNESS.

[Signatures of two witnesses.]

[Signature of the agent of  
the proprietor.]

## APPLICATION FOR INTERIM COPYRIGHT.

APPLICATION FOR REGISTRATION BY PROPRIETOR.

(R.S.C., c. 62, s. 13.)

To the Minister of Agriculture,

(Copyright Branch,) Ottawa.

I [*name of person*] domiciled in [*if in Canada state the place and province, if in any other part of the British possessions state the place, or if a citizen of any country which has an international copyright treaty with the United Kingdom in which Canada is included, state the country*], hereby declare that I am the proprietor [or, the legal representative of the proprietor] of the [book, map,

chart, musical, or, literary composition, original painting, drawing, statue, sculpture, photograph, print, or, engraving, *as the case may be*], called [*title or name as the case may be*], for which I hereby request the privilege of an interim copyright in accordance with the terms of The Copyright Act, and for that purpose I herewith forward the fee required by the Act, together with a copy of the title of the said [book, map, chart, etc., *as the case may be*].

IN TESTIMONY whereof I have signed in the presence of the two undersigned witnesses.

Dated at — the — day of — 19—.

WITNESS.	}	[Signature of proprietor.]
[Signatures of two witnesses.]		

#### APPLICATION FOR INTERIM COPYRIGHT.

APPLICATION FOR REGISTRATION BY AGENT OF PROPRIETOR.

(R.S.C., c. 62, s. 13.)

To the Minister of Agriculture,  
(Copyright Branch,) Ottawa.

THE undersigned, resident in the [*give the name of the place and province where the agent resides*] being the agent authorized by [*name of the proprietor*] who is domiciled in [*if in Canada or in any part of the British possessions, state the place, or if a citizen of any country which has an international copyright treaty with the United Kingdom in which Canada is included, state the country*] hereby declare that [*name of the proprietor*] is the proprietor of the [book, map, chart, etc., *as the case may be*], called [*title or name, as the case may be*], for which I hereby request the privilege of an interim copyright in accordance with the terms of The Copyright Act, and for that purpose I herewith forward the fee required by the Act, together with a copy of the title of the said [book, map, chart, etc., *as the case may be*].

IN TESTIMONY whereof I have signed in the presence of the two undersigned witnesses.

Dated at — the — day of — 19—.

WITNESS.	}	[Signature of agent of proprietor.]
[Signatures of two witnesses.]		

## ASSIGNMENT OF COPYRIGHT

OF A LITERARY, SCIENTIFIC OR ARTISTIC WORK *(b)*.

THIS INDENTURE made in duplicate the — day of — 19—, between — of —, hereinafter called the assignor, of the one part, and — of —, hereinafter called the assignee, of the other part.

WHEREAS the assignor is the author [*or, proprietor*] and entitled to the copyright of a [literary, scientific, *or*, artistic work known as —,] and the assignee has agreed to purchase [a (half) interest in] the said copyright and the interest of the assignor therein.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged) the assignor doth hereby assign and transfer unto the assignee [a (half) interest in] the copyright of and the sole privilege of printing and publishing the said work known as —, together with all right, title, interest, property, claim and demand whatsoever of, in and to the same, and the good will thereof, and all interest in every contract connected therewith.

To hold the said copyright and all profit and advantage arising from printing, re-printing, publishing and vending the said work unto the assignee henceforth during the remainder of the unexpired term of the said copyright for his sole and only use and benefit, [but subject always to such right as may now be subsisting in the publisher or proprietor of the last edition of the said work to prevent the publication of any future edition thereof until such last edition shall be out of print.]

It is hereby agreed that not more than — copies shall be printed or published of any one edition of the said work, and that the assignee shall pay to the assignor the further sum of

*(b)* An assignment to be registered must be in duplicate, originals, both copies to be sent to the Department of Agriculture. One copy is retained by the Department and the other will be returned with a certificate of registration (R.S.C., c. 62, s. 15). No particular form of assignment is required by the Department, which will accept any document purporting to convey the copyright, and no seal is required by the Department. Any number of assignments may be made by one instrument, but separate fees are payable for each assignment.

— dollars upon and for the privilege of re-printing each and every future edition of the said work, each of which said payments shall be made [one week before] the publication or sale of such edition, or any part thereof, by the assignee or any other person in his behalf; and the assignee hereby covenants with the assignor that he will observe the above proviso.

The assignor covenants with the assignee that he has not encumbered the said copyright.

It is agreed that this indenture and all covenants herein contained shall be binding on and enure to the benefit of the executors, administrators and assigns of the parties hereto respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### ASSIGNMENT OF COPYRIGHT.

(Short form (c)).

IN consideration of the sum of — dollars, the receipt whereof is hereby acknowledged, I hereby assign and transfer unto — of the — of —, his executors, administrators and assigns, all my interest [or, an undivided one half interest, or as the case may be] in the copyright of [here describe the article, etc., copyrighted] for the period of time provided and allowed by the laws of Canada in that behalf.

And I declare that I am solely [or as the case may be] entitled to the copyright of the said [articles, etc., copyrighted] expressed to be hereby assigned, free from all incumbrances [or as the case may be].

Dated at — the — day of — 19—.

WITNESS.

(c) See note (b) on p. 375.

## CROWN LANDS—ONTARIO.

### APPLICATION BY SINGLE MAN FOR 100 ACRES

UNDER "THE FREE GRANTS AND HOMESTEADS ACT" (a).

#### AFFIDAVIT OF APPLICANT.

ONTARIO;                    I, [set out the name, last place of resi-  
[District] of —,        } dence and occupation in full], make oath  
To Wit:                } and say:

1. That I have not heretofore been located for any land under "The Free Grants and Homesteads Act," [except —]; nor have I obtained a patent for any land as a Free Grant or any benefit under that section of the said Act which provides for the remission of arrears due to the Crown by settlers who purchased in Free Grant townships [except for lot number —, but that I have absolutely and in good faith parted with the said land so patented to me, I am not now holding any other land obtained as a Free Grant, and I am entitled to and desire to obtain another location].

2. That I am of the age of — years (b).

3. That I desire to be located for lot number — in the — concession of the township of —.

4. That I believe the said land is suitable for settlement and cultivation and is not valuable chiefly for its mines, minerals or pine timber; and that such location is desired for my benefit and for the purpose of actual settlement and cultivation of such land, and not either directly or indirectly for the use and benefit of any other person or persons whomsoever, nor for the purpose of obtaining, possessing or disposing of any of the pine trees growing or being on the said land, or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon.

(a) R.S.O., c. 29, s. 7.

(b) The applicant must be at least 18 years of age.

5. That I am not aware of any adverse claim on the grounds of occupation, improvements or otherwise, and that the said lot is wholly unoccupied and unimproved [except —].

SWORN, etc.

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AFFIDAVIT IN SUPPORT OF APPLICATION (c).

WE, — of the — of — in the — of —, and — of the — of — in the — of —, each for himself make oath and say:

1. That I know lot number — in the — concession of the township of — referred to above.

2. That I am not aware of any claim to the said lot on the grounds of occupation, improvements or otherwise, adverse to that of the applicant.

3. That the said lot is wholly unoccupied and unimproved [except —].

SWORN, etc.

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APPLICATION BY SINGLE MAN CLAIMING AN ALLOWANCE FOR ROCK AND SWAMP.

UNDER "THE FREE GRANTS AND HOMESTEADS ACT" (d).

AFFIDAVIT OF APPLICANT (e).

ONTARIO;	{	I, [state name of applicant in full, last
[District] of —,		place of residence and occupation], make
To Wit:		oath and say:

1. That I have not heretofore been located for any land under "The Free Grants and Homesteads Act," [except for —,] nor have I obtained a patent for any land as a free grant, or any benefit under that section of the said Act which provides for the remission of arrears due to the Crown by settlers who purchased in Free Grant townships.

2. That I am — years of age, and that I desire to be located for lot number — in the — concession of the town-

(c) Required by Department in order to show that there is no adverse claim, etc.

(d) R.S.O. c. 29, s. 7.

(e) If the applicant can make this affidavit he can, in certain townships, claim an additional 100 acres to that allowed under form on page 377.

ship of —, and also for lot number — in the — concession of the said township.

3. That I have carefully examined the said lands, and there are at least — acres of said lot number — which by reason of — thereon, and at least — acres of said lot number — which by reason of — thereon, and at least — acres of said lot number — which by reason of — thereon, and at least — acres of said lot number — which by reason of — thereon cannot be made available for farming purposes, and that there is no available timber growing on the said — acres of the said lots.

4. That I believe the said lands, for which I desire to be located as aforesaid, are suited for settlement and cultivation, and are not valuable for their mines, minerals, or pine timber, and that such location is desired for my benefit and for the purpose of actual settlement and cultivation of such lands, and not either directly or indirectly for the use and benefit of any other person or persons whomsoever, nor for the purpose of obtaining possession or disposing of any of the pine trees growing or being on the said lands, or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron, or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon.

5. That the said lots are wholly unoccupied and unimproved [except —].

SWORN, etc.

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#### AFFIDAVIT IN SUPPORT OF APPLICATION.

We, — of the township of — in the [district] of —, —, and — of the township of — in the [district] of —, —, make oath and say:

That we have carefully examined lot number — in the — concession of the township of —, and also lot number — in the — concession of the township of —, and that there are at least — acres of said lot number — which by reason of — thereon, and at least — acres of said lot number — which by reason of — thereon, and at least — acres of said lot number — which by reason of — thereon, and at least



— acres of said lot number — which by reason of — thereon cannot be made available for farming purposes, and that there is no valuable timber growing on the said — acres of the said lots, and that the said lots are wholly unoccupied and unimproved [except —].

SWORN, etc.

### APPLICATION BY HEAD OF FAMILY, WITH CHILDREN UNDER 18 YEARS OF AGE.

UNDER "THE FREE GRANTS AND HOMESTEADS ACT" (f).

#### AFFIDAVIT OF APPLICANT.

ONTARIO; } I, [set out the name, last place of residence  
[District] of —, } and occupation in full], make oath and  
To Wit: } say:

1. That I have not heretofore been located for any land under "The Free Grants and Homesteads Act" [except —], nor have I obtained a patent for any land as a Free Grant or any benefit under that section of the said Act which provides for the remission of arrears due to the Crown by settlers who purchased in Free Grant townships [except under lot number —; but that I have absolutely and in good faith parted with the said land so patented to me; I am not now holding any other land obtained as a Free Grant, and I am entitled to and desire to obtain another location].

2. That I am the male head of a family [or, the sole female head of a family], having — children under eighteen years of age, residing with me, consisting of — sons and — daughters (g).

3. That I desire to be located under the said Act, and the regulations made thereunder for lot number — in the — concession, and lot number — in the — concession of the township of —.

4. That I believe the said lands are suitable for settlement and cultivation, and are not valuable chiefly for their mines, minerals or pine timber.

(f) R.S.O., c. 29, s. 7.

(g) This paragraph is required under an Order in Council of May 27, 1869.

5. That such location is desired for my benefit and for the purpose of actual settlement and cultivation of such lands, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever, nor for the purpose of obtaining, possessing or disposing of any of the pine trees growing or being on the said lands, or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon.

6. And that the said lots are wholly unoccupied and unimproved [except —].

SWORN, etc.

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AFFIDAVIT IN SUPPORT OF APPLICATION *(h)*.

We, — of the — of — in the — of —, —, and — of the — of — in the — of —, —, each for himself, make oath and say:

That I am well acquainted with — named in the above affidavit, and that he is the male [*or*, sole female] head of a family and has — children under eighteen years of age, consisting of — sons and — daughters, residing with him.

And I further make oath and say that I know lots number — and — in the — concession of the township of — referred to above, that I am not aware of any claim to the said lots on the grounds of occupation, improvement or otherwise, adverse to that of the applicant, and that the said lots are wholly unoccupied or unimproved [except —].

SWORN, etc.

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APPLICATION FOR CANCELLATION OF LOCATION

UNDER "THE FREE GRANTS AND HOMESTEADS ACT" *(i)*.

AFFIDAVIT OF APPLICANT.

ONTARIO,	}	I, —, of the township of — in the
[District] of —,		
To Wit:	}	say:

*(h)* Required by Department in order to shew that there is no adverse claim, etc.

*(i)* R.S.O., c. 29.

1. That I desire to be located for lot number — in the — concession of the township of —.

2. That I am informed that the said lot was located on the — day of — 19—, to one —.

3. That I know the said lot, and personally visited and examined it on the — day of — 19—, and that there was no person at that time residing thereon; that I did not discover any improvements whatever on the said lot; and that from said examination, and from information which I have received, I verily believe that the said locatee has never occupied or improved the said lot.

*[If locatee has occupied or improved at any time, set out when he ceased to occupy, what improvements he made, when they were made, and in what position the lots are at the time of application.]*

4. That as far as I am aware the said locatee is not occupying or improving any other land in the said township, and resides at present at —.

5. And that I have not, neither has any person for me, either directly or indirectly, by purchase or otherwise from the said locatee, or any other person, acquired any interest in the said lot.

SWORN, etc.

#### AFFIDAVIT IN SUPPORT OF APPLICATION (j).

ONTARIO;	}	We, — of the township of — in the
[District] of —,		district of —, and — of the — of —
To Wit:		in the — of —, [yeomen], each for himself, make oath and say:

1. That I know lot number — in the — concession of the township of — which was located to —, and that I personally visited and examined the said lot on the — day of — 19—, that there was no person then residing thereon, nor were there any improvements whatever; and that from said examination and from information which I have received, I verily believe that the said locatee has never occupied or improved the said lot.

(j) Required by Department in order to shew that there is no adverse claim, etc.

*[If locatee has occupied or improved at any time, set out when he ceased to occupy, what improvements he made, when they were made, and in what position the lots are at the time of application.]*

2. That the said locatee is not, so far as I am aware, occupying or improving any other land in the said township and that he resides at —.

SWORN, etc.

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### CERTIFICATE OF CROWN LANDS AGENT

RESPECTING APPLICATION FOR CANCELLATION OF LOCATION.

I HEREBY CERTIFY that I have no reason to doubt the statements contained in the foregoing affidavits; and also that I did, on the — day of — 19—, mail to — the locatee of said lots, addressed to — post office, a letter notifying him of the application for cancellation, and calling upon him to show cause why it should not be allowed, and since then I have not received any reply to the said notice [except —].

[Signed] —,   
Crown Lands Agent.

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### APPLICATION FOR PATENT

UNDER "THE FREE GRANTS AND HOMESTEADS ACT" (k).

#### APPLICATION.

To the Crown Lands Agent at —.

SIR; I have the honour to apply, under the provisions of "The Free Grants and Homesteads Act," for a patent from the Crown for my homestead, upon the grounds set forth in the following affidavits; and have to request that the said patent when issued, or advice of the issue of the same, be mailed to the following address:

[Name in full] —.  
[P. O. address] —.

(k) R.S.O., c. 29.

## AFFIDAVIT OF APPLICANT (U).

ONTARIO;                    } I, —, of the — of — in the  
 [District] of —,        } [district] of —, —, make oath and  
 To Wit:                } say:

1. That I desire to obtain my patent under the provisions of the eighth section of "The Free Grants and Homesteads Act" for lot — of the township of —, for which lot I was located on the — day of — 19—.

2. That since then I have been an actual resident upon, and have cultivated the said lot continuously for — years, and that I am still residing upon and cultivating the same.

3. That I have cleared upon the said lot, and had under cultivation last season — acres at least, and that I have erected buildings thereon of the following descriptions and dimensions, viz.: a house fit for habitation — x — feet at least, and —.

4. That I have not been located for any other land [except —] nor have I obtained patent for any land as a Free Grant, or by remission of arrears, under the provisions of the said Act; and that I am well entitled to the patent for the said lot, and am not aware of any adverse claim thereto on the grounds of occupation, improvements or otherwise.

SWORN, etc.

## AFFIDAVIT IN SUPPORT OF APPLICATION (U).

ONTARIO;                    } We, — of the township of — in the  
 [District of] —,        } — of —, and — of the — of —  
 To Wit:                } in the — of — [yeomen], each for him-  
                               } self, make oath and say:

That I know lot — in the — concession of the township of — described in the affidavit of — the applicant for a patent; that the said affidavit has been read over to me, and that all the statements made therein respecting the residence of

(1) This affidavit may be sworn before any Crown Lands agent, a justice of the peace, or a commissioner for taking affidavits. The name, actual place of residence and occupation of applicant, should be inserted in full, and the above form should be followed where practicable. If it be necessary to vary it all the facts should be set out fully. If the applicant be a married woman, give name of husband in full.

the said — on the said lot, and the cultivation and improvements made by him thereon are true in substance and in fact; and that I am not aware of any adverse claim thereto.

SWORN, etc.

### APPLICATION FOR PURCHASE OF LAND UNDER SETTLEMENT REGULATIONS.

UNDER "THE PUBLIC LANDS ACT" (m).

#### AFFIDAVIT OF APPLICANT (n).

Province of Ontario } I, [set out name, last place of residence  
[District] of —, } and occupation in full], make oath and  
To Wit: } say:

1. That I am of the full age of eighteen years, [and am the head of a family (o)].

2. That I am desirous of purchasing lot number — in the — concession of the township of — in the district of —, and that I believe the said land is suited for settlement and cultivation.

3. That I have examined the said land, and that it is not, to my knowledge, valuable for mines, minerals or pine timber, and that I desire to purchase it for my own use and benefit, for the purpose of actual settlement and cultivation of the land, and not either directly or indirectly for the use or benefit of any other person, nor for the purpose of obtaining, possessing or disposing of any mines, minerals or timber thereon (p).

4. That the said land is wholly unoccupied and unimproved [except —].

SWORN, etc.

#### AFFIDAVIT IN SUPPORT OF APPLICATION (q).

We, — of the — of — in the — of —, —, and — of the — of — in the — of —, —, each for himself, make oath and say:

(m) R.S.O., c. 28.

(n) Applicant must be a male over 18 years of age, or the sole female head of a family and having children under 18 years.

(o) If the applicant is a single man omit the words within brackets.

(p) This paragraph is required under a departmental regulation.

(q) To be made by two disinterested parties.

1. That I know lot number — in the — concession of the township of — referred to above.

2. That I am not aware of any claim to the said lot on the grounds of occupation, improvements or otherwise, adverse to that of the applicant.

3. That the said lot is wholly unoccupied and unimproved [except —].

SWORN, etc.

#### AFFIDAVIT PROVING PERFORMANCE OF SETTLEMENT DUTIES.

ONTARIO;	We, — of the — of — in the township of —, —, and — of the — of — in the township of —, —, each for himself, make oath and say;
[District] of —,	
To Wit:	

1. That I know lot number — in the — concession of the township of —.

2. That there are — acres cleared and had under cultivation and crop on the said lot.

3. That the following buildings have been erected thereon, namely: A house fit for habitation — x — feet, and —.

4. That the said lot is occupied by — and has been continuously occupied by — for — years, and the improvements made thereon were made by —.

5. That I do not know of any claim to or occupation of the said lot adverse to that of —.

SWORN, etc.

#### ASSIGNMENT OF CROWN LANDS.

ONTARIO (e).

KNOW ALL MEN by these presents that I, —, of the — of — in the county of —, —, in consideration of — dollars to me paid by — of the — of — in the county of —, —, at or before the date hereof, the receipt whereof

(e) Any form of deed or quit claim, whether employing technical words or not, which manifests the intention of the parties to transfer rights in Crown Lands will be admitted by the Department of Crown Lands, Ontario. The Department does not require the transfer to be in duplicate.

I do hereby acknowledge, do hereby bargain, sell, assign and transfer unto the said —, his heirs and assigns, all my estate, right, title, interest, claim and demand whatsoever of, in and to that certain parcel of land situate, etc.

To have and to hold the same with every benefit which may be derived from the said land unto the said —, his heirs and assigns forever.

IN WITNESS whereof I have hereunto set my hand and seal this — day of —19—.

SIGNED, SEALED, etc.

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# DECLARATIONS.

## STATUTORY DECLARATION.

(Can., 1893, c. 31, Sch. A.)

COUNTY } IN THE MATTER of —.  
of —, } I, —, of the — of — in the county of  
To Wit: } —, —, do solemnly declare:

That [*state the fact or facts declared to*].

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED before me at the — of  
— in the county of — this  
— day of — A.D. 19—.

A Commissioner for taking affidavits  
[or any person authorized to administer an oath].

## DECLARATION AS TO CELIBACY AND AGE (a).

COUNTY } I, —, of the — of — in the county of  
of —, } —, —, the mortgagor [*or, grantor, or as the*  
To Wit: } *case may be*] named in the foregoing [*or, annexed*]  
instrument, do solemnly declare: That at the time of the execution by me of the said instrument I was unmarried, and that I was over the full age of twenty-one years.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893 (b).

DECLARED, etc.

(a) This declaration, which may be attached to the instrument, is now often taken by careful conveyancers. Its use will be obvious. It is not, however, necessary that the wife of a mortgagor should be of age in order to bar her dower (R.S.O., c. 163, s. 5.).

(b) Can., 1893, c. 31.

## DECLARATION AS TO HANDWRITING.

COUNTY        )       IN THE MATTER of ——.  
 of —,        )       I, —, of the — of —, in the county of  
 To Wit:    )       —, —, do solemnly declare:

1. That I have carefully examined the [deed] now produced and shewn to me and marked —, purporting to be signed by one [subscriber].

2. That I was intimately acquainted with the said [subscriber] and I have frequently seen him subscribe his signature to cheques and other documents, and I verily believe that the signature "—" subscribed to the said [deed] is in the proper handwriting of the said [subscriber].

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893 (c).

DECLARED, etc.

## DECLARATION OF TRUST

## OF PURCHASE MONEY.

THIS INDENTURE made the — day of — 19—, between A.B. of the — of — in the county of —, —, of the one part, and C.D. of the — of — in the county of —, —, of the other part.

WHEREAS by a conveyance [bearing even date with these presents] made between E.F. of —, of the first part, and the said A.B. of the second part, the said E.F., in consideration of —therein mentioned to be paid to him by the said A.B.] did grant unto the said A.B. in fee simple [*or as the case may be.* all that certain parcel of land, situate, etc.

AND WHEREAS the said sum of — dollars in the said conveyance mentioned was in fact the proper money of the said C.D.

AND WHEREAS the said A.B. has, at the request of the said C.D., agreed to execute the declaration of trust herein contained.

NOW THESE PRESENTS WITNESS that in pursuance of the said agreement and in consideration of the premises and of one

(c) Can., 1893, c. 31.

dollar now paid by the said C.D. to the said A.B., (the receipt whereof is hereby acknowledged) the said A.B. hereby declares that he, his executors, administrators and assigns do and shall respectively stand possessed of all interest in the said sum of — dollars in trust for the said C.D.

And the said A.B. covenants for himself, his heirs, executors and administrators, that he will at any time hereafter upon the request and at the costs of the said C.D., his heirs, executors, administrators and assigns, convey the said lands unto him, the said C.D., his heirs, executors, administrators and assigns, by a good conveyance of quit claim, releasing unto the said C.D. all his claims upon the said lands and covenanting that he has done no act to incumber the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### DECLARATION OF TRUST

WHEN PURCHASE MONEY ADVANCED BY TWO PERSONS, AND IN  
EQUAL OR UNEQUAL PROPORTIONS.

To ALL to whom these presents shall come, I, —, of — send greeting:

WHEREAS by indenture dated the — day of — 19—, and registered in the Registry Office for the county of — as number —, — of — conveyed to me all that certain parcel of land, situate, etc.

AND WHEREAS the whole consideration or sum paid by me for the purchase of the said land was — dollars, of which sum one [half] part was the money of me the said —, and one [half] part was money of —, and the said purchase was made by me as to one [equal undivided half] part of the said land as a trustee for and on behalf of the said —, as I do hereby admit and declare.

NOW THESE PRESENTS WITNESS that in consideration of the premises I hereby acknowledge and declare that I, my heirs, executors, administrators and assigns, do and shall respectively stand seized of one [undivided half] part of the said lands with the appurtenances conveyed by the said indenture, in trust for

the said —, his heirs and assigns, forever, and that I or my heirs, executors, administrators or assigns will convey, lease or dispose of the same in such manner as he or they shall direct.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### DECLARATION OF TRUST.

#### WHEN MORTGAGE TAKEN FOR SEVERAL LENDERS.

THIS INDENTURE made [in triplicate] the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the trustee, of the first part; —, of the — of — in the county of —, —, of the second part; and — of the — of — in the county of —, —, of the third part.

WHEREAS by a [chattel] mortgage [bearing even date with these presents], — [name of mortgagor] of the — of — in the county of —, —, (in consideration of the sum of — dollars expressed to be paid to him by —, the trustee above mentioned) did grant and mortgage certain land [or, certain goods and chattels] situate at — in the county of —, [in the case of a chattel mortgage, add, described in the schedule hereunto annexed], and more particularly described in the said mortgage, to the trustee to secure the payment to him of the sum of — dollars, with interest thereon at the rate of — per cent per annum.

AND WHEREAS the said sum of — dollars in the said mortgage mentioned as having been advanced by the trustee was in fact contributed by the parties hereto of the second and third parts in the proportions or sums following, that is to say: the sum of — dollars by the said party of the second part, and the sum of — dollars by the said party of the third part.

AND WHEREAS the trustee has, at the request of the said parties of the second and third parts by whom the said sum of — dollars was loaned as aforesaid, agreed to make and execute such declaration of trust as is hereinafter contained.

NOW THESE PRESENTS WITNESS that in pursuance of the said agreement and in consideration of the premises the trustee hereby declares that he, his executors, administrators and assigns,

shall henceforth stand possessed of [the said land and of] all interest in the said principal sum of — dollars secured by the said mortgage, and the interest thereon, upon the trusts following, that is to say: upon trust out of the moneys which shall be received from time to time under the said mortgage in the first place to pay thereout all the costs, charges and expenses of and incident to the demanding, recovering and enforcing payment of the said moneys, and of the execution of the trusts of these presents; and, subject thereto, in trust ratably and *pari passu* for the said parties of the second and third parts, by whom the said sum of — dollars was contributed, or their respective executors, administrators or assigns, according and in proportion to the several sums so contributed and advanced by them respectively as aforesaid.

And it is hereby further declared and agreed that (*d*) the power of sale and other powers vested by statute in a mortgagee, except powers of leasing and agreeing to lease or let, shall be forthwith exercisable and put in force by the trustee upon the request in writing of either of the parties hereto of the second and third parts, by whom the said principal sum of — dollars was so contributed as aforesaid, or of any other person or persons for the time being entitled to the whole or a part or share of any of the several sums so contributed as aforesaid.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## DECLARATION OF TRUST

### OF STOCK.

MEMORANDUM made this — day of — 19—.

I, —, of the — of —, in the county of —, —, do hereby acknowledge and declare that I am possessed of — shares of [common, *or*, preferred, *or as the case may be*] stock of the — Company, numbered from — to — inclusive [*or*, being certificate number —] and that the said shares were transferred to me in trust for the only use, benefit and advantage of —

(*d*) In the case of a chattel mortgage, instead of the next two lines say, "all powers vested in a mortgagee by virtue of the said mortgage or otherwise shall be, etc."

of — in the county of —, —, and his legal representatives; and that the said stock was purchased with money which belonged solely to the said —, and that the certificate of the said shares of said stock was taken in the name of me, the said —, from motives of temporary convenience; and that the said stock, and all dividends and advantages accruing thereon, are and shall be held by me and my legal representatives only for the convenience, use, benefit, and advantage of him, the said —, and his legal representatives; and on demand from him or them I will, and my legal representatives shall, assign the same to him or them, and account to and pay over to him or them all dividends and profits that shall by me or them have been received thereon.

IN WITNESS, etc.

[SIGNED, SEALED, etc.] \_\_\_\_\_

#### DECLARATION OF TRUST,

BY A TRUST COMPANY.

TO ALL to whom these presents shall come, The — Trust Company of — in the county of —, a body corporate, duly incorporated under the laws of —, sends greeting:

WHEREAS — of —, —, hath deposited with the said The — Trust Company —, debentures [*describing them*] of the par value of — dollars each, and also the sum of — dollars of lawful money of Canada, and hath requested the said company to stand possessed of the said debentures and sum of money and to hold the same upon the trusts hereinafter expressed, with full power to the said company to invest and reinvest the said sum of — dollars and to sell, assign and transfer the said debentures or any part thereof, and to make such reinvestment of the proceeds of any such sales or transfers as it may deem expedient, which trusts the said company hath agreed to accept.

NOW KNOW YE that the said The — Trust Company doth hereby acknowledge, testify and declare that the said The — Trust Company doth not claim to have any right in the said debentures or sum of money to its own use or benefit but

only to the uses and benefits and upon the trusts hereinafter expressed, that is to say: *[for example]* To pay the interest and income arising therefrom half yearly to A.B. and C.D. of —, —, share and share alike for and during the full term of their natural lives and upon the death of either of them to pay the whole of the said interest and income to the survivor of them for and during the full term of her natural life and upon the death of such survivor to pay over one moiety or equal half part of the said debentures and sum of money to E.F., and as to the remaining moiety or equal half part to pay the interest and income arising therefrom half yearly to G.H. for and during the full term of her natural life for her own sole use and benefit, free from the control of any husband with whom she may intermarry or may have intermarried, and upon the death of the said G.H. to pay the said moiety or one half part to such person or persons as the said G.H. shall by her last will and testament appoint, and upon failure of such appointment to pay the same to I.J. if surviving, and should the said I.J. not survive the said G.H. then to pay the said moiety or one half part to K.L. and M.N., share and share alike, reserving nevertheless to the said company full power to invest and re-invest the said sum of — dollars, and to sell, assign and transfer the said debentures or any part thereof, and to make such re-investment of the proceeds of any such sales or transfers as it may deem expedient.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### DECLARATION AS TO IDENTITY OF LAND.

I, *[declarant]*, of —, do solemnly declare that:

##### *Description of declarant.*

1. I am a *[description of declarant]* and have for the last — years resided at —, aforesaid.

##### *Acquaintance with parcels.*

2. I am well acquainted with the lands situate at — delineated in the plan now produced and shown to me marked —, and therein coloured *[pink]* which I am informed have

been contracted to be sold by — [vendor], of —, to — [purchaser] of —.

*Belief as to identity.*

3. I verily believe, after having carefully read and examined an indenture dated the — day of — 19—, and made between — [former owner], of the one part and the said — [vendor], of the other part, that the said lands contracted to be sold as aforesaid are part of the lands and hereditaments which by the said indenture were conveyed to the said [vendor] by —.

*Sources of knowledge.*

4. I depose as above from my knowledge of the neighbourhood of — aforesaid, and from having been acquainted with the said [former owner] for a period of — years for whom I collected the rents of the property during the whole of that period.

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED, etc.

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DECLARATION AS TO IDENTITY OF LAND.

*(Another form.)*

I, [declarant] of —, do solemnly declare that:

*Description of declarant.*

1. I am a [description of declarant] and have for the last — years resided at — aforesaid.

*Acquaintance with property.*

2. I am well acquainted with the [house] known as — situate at — aforesaid, delineated in the plan drawn in the margin of this declaration, and which I am informed has been contracted to be sold by [vendor] of —, to [purchaser] of —.

*Belief as to identity.*

3. I have read and carefully examined an indenture dated the — day of — 19—, made between [grantor] and [grantee]



and verily believe that the site of the [house] so contracted to be sold is part of the lands which by the said indenture were conveyed by the said [grantor] to the said [grantee] under the name of —.

*Acquaintance with will of grantee.*

4. I have also read a copy of the will dated the — day of — 19—, of the said [grantee] whereby the said [grantee] made a disposition in the terms following: I devise my [house] at — to [vendor].

*Grantee had no other property.*

5. The said [grantee] had not at the time of his death, or at any other time, any [house] at — other than the [house] mentioned in paragraph 2 of this declaration, which to my knowledge he built in the year 19—, and which he occupied from that time up to the date of his death.

*Sources of knowledge.*

6. I depose as above from [state sources of knowledge].

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED, etc.

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DECLARATION AS TO PEDIGREE.

I, A.B., of —, do solemnly declare that:

*Parents.*

1. I am one of the children of the late [father of declarant] by [mother of declarant]. I have always understood and their family bible contains an entry to the effect that my said parents were married at — [church in the parish of —] on the — day of —. I verily believe that they are the persons of those names respectively mentioned in the certificate of marriage now produced and shown to me and marked [A.B. 1]. I have always understood and I believe as stated in the said certificate of marriage that my said parents were respectively a bacheior and a spinster at the date of such marriage.

*Parents issue.*

2. I have always understood and I believe that there was issue of the said marriage [four] children and no more namely [names of other children] and me this declarant.

*Mother's death.*

3. The said [mother of declarant] died on the — day of — 19—, and she is the person of that name mentioned in the certificate of death now produced and shown to me and marked [A.B. 2].

*Father's death.*

4. The said [father of declarant] never married again and died on the — day of — 19—. He is the person of that name mentioned in the certificate of death now produced and shown to me and marked [A.B. 3].

*Eldest child's death.*

5. The said [eldest child] died a bachelor [or, spinster], at the age of — years on the — day of — 19—, and he [or, she] is the person of that name mentioned in the certificate of birth and death now produced and shown to me and marked [A.B. 4] and [A.B. 5] respectively.

*Second child's marriage and death.*

6. The said [second child] was married on the — day of — 19—, to [wife of second child] then [maiden name] spinster, and there was issue of such marriage [one child] and no more, namely [name of child of second child]. The said [second child] died on the — day of — 19—, and his only child the said [child of second child] died a [bachelor] at the age of — years on the — day of — 19—, and they are the persons of those names respectively mentioned in the five several certificates of birth, marriage and death now produced and shown to me and marked [A.B. 6, A.B. 7, A.B. 8, A. B. 9, and A.B. 10] respectively. The said [wife of second child] is still living.

*Presumed death of third child.*

7. The said [third child] left the port of — for — on the — day of — 19—, on board the steamship “—,” as I know from having witnessed the departure of the said ship

from — aforesaid, and the said [*third child*] since that date has never been heard of by me or by any of his relatives. [The said ship a few days after the said — day of — 19—, was reported to have come into collision with the steamship “—” and to have been lost with all her passengers and crew], and I verily believe that the said [*third son*] is dead [*or*, was drowned in consequence of such collision] and that he died a bachelor and intestate.

*Declarant's birth.*

8. I have always understood that I was born on the — day of — 19—, and I have no doubt that I am the person named [A.B.,] referred to in the certificate of birth now produced and shown to be marked [A.B.11]. I verily believe that in the events which have happened there is no issue living of the said [*father of declarant*] other than myself.

*Sources of knowledge.*

9. I depose as above from my own personal knowledge or family repute and from entries made in the handwriting of my said late father in his family Bible now in my possession.

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED, etc.

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## GUARANTEES.

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### GUARANTEE FOR GOODS SOLD.

UNLIMITED AND CONTINUING.

The — day of — 19—.

To — & Co. of —.

In consideration of your selling goods from time to time to — of — on such terms of credit as you shall think fit, I guarantee to you the payment of all moneys which are now or which shall at any time hereafter be due to you by him, and also due payment of all commercial paper which may at any time hereafter be due to you by him or held by you upon which he shall or may be liable.

You shall have the right at any time to refuse further credit to the said —; to release any and all collateral or other securities, and to extend the time for payment to the said — or to any person liable upon any collateral or other security which you may at any time hold, and to compromise or compound with him or them, without notice to me, and without discharging or affecting my liability.

This guarantee to be a continuing guarantee.

WITNESS:

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### GUARANTEE FOR GOODS SOLD.

UNLIMITED AND CONTINUING.

*(Another form.)*

To — & Co., of —.

I hereby guarantee payment to you for all goods (a) which you may supply to — of — at his request.

(a) In *St. Lawrence Steel & Wire Co. v. Leys* (6 O.L.R., 1903, p. 235) where the defendant's firm had previously ordered goods from the plaintiff, a telegram to the plaintiff "will guarantee payment of all accounts," was held to be a continuing guarantee, and the defendant was held liable for accounts incurred or to be incurred.

And I agree that you shall be at liberty to accept his notes or acceptances for the price of such goods or any part thereof, to renew the same, or any part thereof, to compromise his liability to you, and to exercise or relinquish other securities, as you may think proper, without lessening or affecting your rights against me.

And I declare and agree that this guarantee shall continue to be binding, and shall enture to the benefit of your firm, whether composed of its present or other partners, and whether under the present or any other firm name.

Dated the — day of — 19—.

GUARANTEE FOR GOODS SOLD

CONTINUING, BUT LIMITED IN AMOUNT.

BY ONE PERSON.

The — day of — 19—.

To Messrs. — & Co.

In consideration of your selling goods from time to time to — of — on such terms of credit as you shall think fit, I guarantee to you payment of all moneys which are now or which shall at any time hereafter be due to you by him, and also due payment of all paper which may at any time be given to you by him, or held by you, upon which he shall or may be liable.

This guarantee shall be a continuing guarantee to the extent of and not exceeding — dollars, and shall extend to and be security for all and every sum or sums of money to the extent of — dollars as aforesaid which shall or may at any time be due from the said — to you, over and above any dividends or moneys which shall be received from his estate, and over and above any moneys which may be realized from any securities which you hold or may hereafter hold.

You shall have the right at any time to refuse further credit to the said —, and to release any collateral or other securities, extend the time for payment to him, or to any person liable upon any collateral or other security which you may at any time hold, or compromise or compound with him or them without notice to me, and without discharging or affecting my liability.

WITNESS:

## GUARANTEE FOR GOODS SOLD.

CONTINUING, BUT LIMITED IN AMOUNT.

JOINT AND SEVERAL.

To — &amp; Co., of —.

Gentlemen; Understanding that — of the — of —, —, desires to purchase goods from you from time to time upon credit so that the indebtedness for the same shall not at any one time exceed — dollars, and that you are willing to supply the same to him on receiving this security, we beg to say that in consideration of your supplying goods to him from time to time upon credit we, the undersigned, jointly and severally guarantee the payment by him to you of the price of such goods which you may from time to time supply to him upon credit, to the extent of — dollars.

You shall be at liberty to accept his notes or acceptances for such price, or any part thereof, to renew the same or any part, to compromise his liability to you, and to accept or relinquish other securities as you may think proper, without lessening or affecting your rights against us or any of us.

This shall be a continuing guarantee to the extent of — dollars for the price of all goods which you may from time to time supply to him until determined by written notice from us to you, and shall enure to the benefit of your firm, whether composed of its present or other partners, and whether under the present or any other firm name.

Dated the — day of — 19—.

## GUARANTEE FOR GOODS SOLD.

CONTINUING GUARANTEE FOR BALANCE ABOVE A FIXED SUM.

The — day of — 19—.

To Messrs. — &amp; Co.

IN consideration of your selling goods from time to time to — of — on such terms of credit as you shall think fit, I guarantee to you the payment of all moneys which are now or which shall at any time hereafter be due to you by him, and also due payment of all bills, notes or cheques which may at

any time be given to you by him or held by you, upon which he shall or may be liable over and above the sum of — dollars.

This guarantee shall be a continuing guarantee to secure the ultimate balance which is now or which shall hereafter be due by him to you in respect of moneys and paper aforesaid over and above the said sum of — dollars, and any dividends or moneys which shall be received from his estate, and any moneys which may be realized from any securities which you hold, or may hereafter hold, shall and may be first applied by you upon the liability of the said — to you, not hereby secured, until the same shall be fully paid.

You shall have the right at any time to refuse further credit to the said — and to release any collateral or other securities, extend the time for payment to him or to any person liable upon any collateral or other security which you may at any time hold, or compromise or compound with him or them without notice to me, and without discharging or affecting my liability.

WITNESS:

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### GUARANTEE FOR GOODS SOLD.

FOR A CERTAIN AMOUNT.

*(Short form.)*

To — of —.

I hereby guarantee the payment to you for such goods as — of — may require of you to the extent of — dollars, but this is not to be a continuing guarantee.

Dated the — day of — 19—.

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### GUARANTEE OF PAYMENT OF DEBT

BY INSTALMENTS, IN CONSIDERATION OF STAYING SUIT.

To — of —.

In consideration of your staying proceedings in the action you have commenced against — in the — court of — to recover the sum of — dollars, I hereby guarantee the payment of that amount to you by [weekly] instalments of —

dollars. And I further agree that in default of payment of any instalment when due that the whole balance then remaining of the said sum of — dollars shall be recoverable against me upon this guarantee.

Dated the — day of — 19—.

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### GUARANTEE OF RENT.

TO BE ENDORSED ON LEASE.

IN consideration of the making of the within written lease, I hereby covenant and agree with the within named lessor, his heirs, executors, administrators and assigns, that if default shall at any time be made by the lessee therein named, or his executors, administrators or assigns, in the payment of the rent or the performance of the covenants in the within lease contained, on his and their part to be paid and performed, I will pay the said rent and any arrears thereof that may remain due, and also all damages that may arise in consequence of the non-performance of the said covenants or any of them, and that it shall not be necessary to notify me of any default.

WITNESS my hand and seal this — day of — 19—.

WITNESS:

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### GUARANTEE OF RENT

IN CONSIDERATION OF GRANTING OF LEASE.

IN consideration of your agreeing to grant a lease for — years [determinable by the lessee giving you at least — months' notice in writing before the expiration of the first — or — years] of the [description of premises to be demised] to [lessee] of —, at the yearly rent of — dollars payable quarterly on the usual quarter days.

I HEREBY GUARANTEE the payment to you up to but not exceeding altogether the sum of — dollars (the aggregate limit of my liability hereunder) of so much rent reserved by the said lease as may from time to time be in arrear for at least twenty-one days.

This guarantee is to remain in force concurrently with



the said lease for a period of — years from the — day of — and no longer (*b*).

Dated the — day of — 19—.

To [*lessor*] of —.

[*Signature of surety.*]

### NOTICE TO SURETY

OF DEFAULT (*c*).

TAKE NOTICE that [*principal*] of —, for whom you became and are surety to us, the undersigned, under an agreement of guarantee in writing dated the — day of — 19—, has made default in payment of the sum of — dollars due to us in respect of goods supplied [*or, advances made*] to him and secured by the said agreement of guarantee, and that the said sum is still unpaid and due and owing to us.

And we hereby call upon you forthwith to pay or cause to be paid to us the said sum at — between the hours of — and —, otherwise legal proceedings to enforce and recover payment thereof will, at the expiration of one week [*or such other period if any fixed by guarantee itself*] from the date hereof, be taken against you.

Dated the — day of — 19—.

To [*surety*] of —.

[*Signatures of creditors.*]

### NOTICE OF REVOCATION OF GUARANTEE

WHERE NO POWER OF REVOCATION IS RESERVED (*d*).

TAKE NOTICE that I the undersigned [*surety*] hereby revoke and determine from and after the date hereof an agreement

(*b*) Under ordinary circumstances, and unless a contrary intention be clearly manifested by the parties, a guarantee for payment of rent of necessity runs on throughout the duration of the lease (*per* Lush, L.J., in *Lloyd's v. Harper* (1880), 16 Ch. D., at p. 319).

(*c*) The surety is not, strictly speaking, entitled to notice of the principal debtor's default, but it is prudent in the surety's interest to stipulate in express terms that such notice shall be given.

(*d*) The nature of the consideration for the guarantee determines in each case whether it is revocable by notice where there is no power so to determine it expressly reserved. If the consideration be *entire*, as where the guarantee is for the performance of covenants in a lease, it is

of guarantee [*or, surety bond*] dated the — day of — 19—, whereby I became surety for [*principal*] of —. And I declare that all liability whatever on my part under the said agreement [*or, surety bond*] shall henceforth wholly cease and determine.

Dated the — day of — 19—.

[*Signature of surety.*]

To [*person or persons to whom guarantee given*] of —.

### NOTICE OF REVOCATION OF GUARANTEE

#### WHERE A POWER OF REVOCATION IS RESERVED

WHEREAS by a written agreement of guarantee dated the — day of — 19—, I became surety to you for [*principal*] of —. I the undersigned [*surety*] in pursuance of a power for that purpose reserved and contained in the said agreement now give you notice that I hereby revoke and determine the said agreement from the — day of — next ensuing. And that my liability thereunder shall, from and after the said last mentioned date, wholly cease and be determined.

Dated the — day of — 19—.

[*Signature of surety.*]

To [*person or persons to whom guarantee given*] of —.

irrevocable (*per* Lush, L. J., in *Lloyds v. Harper* (1880), 16 Ch. D., at p. 319; see also *Beckett v. Addyman* (1882), 9 Q.B.D., at p. 791. Where, on the other hand, it is *fragmentary*, as in the case of a guarantee given to secure the balance of a running account at a bankers, or a balance of a running account for goods supplied, it is revocable, unless the contrary be provided (*Bastow v. Bennett* (1812), 3 Camp. 220). Though formerly a different view prevailed (*per* Lord Ellenborough, in *Hassell v. Long* (1814), 2 M. & S. 363, 369), it seems to be now clear that, even when a guarantee is *under seal*, it is capable of being revoked by notice (*Burgess v. Eve* (1872), 13 Eq., 450; *per* Lush, L. J., in *Lloyds v. Harper* (1880), 16 Ch. D., at p. 319), unless of course it be from its very nature irrevocable. It may be mentioned that the revocation of a joint and several guarantee by one surety does not discharge the rest (*Beckett v. Addyman*, *supra*).

(e) Where power to revoke a guarantee is expressly reserved, the notice of a revocation should conform thereto in all respects, and especially with regard to the length of time prescribed for the notice.

# LANDLORD AND TENANT.

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## AGREEMENT FOR TENACY.

To A. B.

I agree to let you the following premises namely: —, for one month from the — day of — 19—, [to be used for a —, and for no other purpose] and thereafter from month to month until either party shall give to the other one month's notice of his wish to put an end to this agreement, at the rent of — per month, payable monthly in advance, on the — day of each month, [free of taxes, which are to be paid by the landlord]. And if the said rent is not paid on the days named this agreement is to cease, and I am to be at liberty to resume possession.

*[If any special provisions are desired, see form of Lease on p. 408, and Lease of Furnished Apartments on p. 424.]*

Dated this — day of — 19—.

WITNESS: }

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## ACCEPTANCE.

To C. D. [landlord].

I agree to the above, and accept possession of the premises upon the terms stated, and agree not to alter the present arrangement of the premises, and to give up possession at the end of my tenancy in the same state as now in.

WITNESS: }

*[Here specify articles belonging to the landlord to be left on the premises at the end of tenancy.]*

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## STATUTORY LEASE.

(R.S.O., c. 125.)

THIS INDENTURE, made the — day of —, in the year of our Lord one thousand nine hundred and —, in pursuance

of The Act respecting Short Forms of Leases, between — of —, of the first part, and — of —, of the second part,

WITNESSETH, that in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the said party [*or, parties*] of the second part, his [*or, their*] executors, administrators and assigns, to be paid, observed and performed, he [*or, they*] the said party [*or, parties*] of the first part hath [*or, have*] demised and leased, and by these presents do [*or, doth*] demise and lease unto the said party [*or, parties*] of the second part, his [*or, their*] executors, administrators and assigns, all that messuage or tenement situate [*or, all that parcel or tract of land situate*], lying and being [*here insert a description of the premises with sufficient certainty*].

To have and to hold the said demised premises for and during the term of —, to be computed from the — day of — one thousand nine hundred and —, and from thenceforth next ensuing and fully to be complete and ended. Yielding and paying therefor yearly and every year during the said term hereby granted unto the said party [*or, parties*] of the first part, his [*or, their*] heirs, executors, administrators or assigns, the sum of —, to be payable on the following days and times, that is to say [*on, etc.*], the first of such payments to become due and be made on the — day of — next.

The said [*lessee*] covenants with the said [*lessor*] to pay rent and to pay taxes, except for local improvements (*a*). And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted. And to keep up fences. And not to cut down timber. And that the said [*lessor*] may enter and view state of repair, and that the said [*lessee*] will repair according to notice in writing, reasonable wear and tear, and damage by fire, lightning and tempest only excepted. And will not assign or sublet without leave. And that he will leave the premises in good

(a) A covenant by a lessee to pay taxes does not include an obligation to pay taxes for local improvements unless it is specifically provided by a covenant in the lease (R.S.O., c. 170, s. 17). But a lease for a term not less than 7 years, when the land only belongs to the lessor, and made under The Act respecting Short Forms of Leases, containing a covenant on the part of the lessee to pay taxes, and omitting the words "except for local improvements" shall be deemed a covenant by the lessee for payment of taxes assessed for local improvements, within the meaning of this section (Ont., 1901, c. 12, s. 27).

repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

Provided, that the lessee may remove his fixtures.

Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.

Proviso for re-entry by the said [*lessor*] on non-payment of rent or non-performance of covenants.

The said [*lessor*] covenants with the said [*lessee*] for quiet enjoyment.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### LEASE

WITH SPECIAL DESCRIPTIONS, RESERVATIONS AND COVENANTS (b).

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of —, hereinafter called the lessor, of the first part, and — of —, hereinafter called the lessee, of the second part.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the lessee to be paid, observed and performed, the lessor doth hereby demise and lease unto the lessee all that messuage or tenement [*or, all that certain parcel of land*] situate, etc.

#### *Exclusive use of passageway.*

Together with the exclusive use and enjoyment of the passageway, of the width of — feet, leading from the back part of the said demised premises to — street aforesaid.

#### *Joint use of passageway.*

Together with the right, in common with the lessor and the tenants or occupants of adjoining premises having the like right, to use the passageway in the — side of the said premises leading to — street, the said lessee contributing a due pro-

(b) For further special clauses see "Conveyance of Land," p. 338, substituting words "lessor" and "lessee" for "grantor" and "grantee." See also "Lease of Farm" on p. 432.

portion of the expenses of repairing and maintaining the said passageway.

*Reservation of passageway.*

Excepting and reserving unto the lessor the use at all times and for all purposes, in common with the lessee, of the passageway leading from — street to the rear of the said premises.

*Reservation of timber and mines.*

Excepting and reserving unto the lessor all timber and trees now standing or growing, or hereafter to be standing or growing, upon the said premises or any part thereof, and all mines, minerals and quarries in, upon or under the same, [but without power to the lessor to cut down or remove any such timber or trees, or to dig for or work such mines, minerals or quarries except with the consent in writing of the lessee].

*Reservation of right to plant trees.*

Excepting and reserving unto the lessor and his agents, servants and workmen during the continuance of this lease from time to time at all seasonable times in the year full and free liberty to come and be in and upon the said demised lands and premises and to set and plant in [describe portion of land] such and so many young trees and shrubs as the lessor shall from time to time think proper, and to do every needful act to fence in and preserve the said trees and shrubs, and also free liberty to enter upon the said lands at all seasonable times in the day to view the condition of such trees and shrubs and to prune and tend them, the lessor making good all damage caused by the performance of any of the acts aforesaid.

*Reservation of right of drainage.*

Reserving unto the lessor free passage and running of water and soil [describe premises] by and through the sewer or drain in or under, etc., [or, by and through the sewers or drains now existing or hereafter to be made in or under, etc.] the position of which is shown on the plan hereto annexed and thereon coloured [brown], [the tenant or tenants for the time being of [state what premises] upon request paying his or their share or proportion of the cost of cleaning and keeping the said sewers and drains in repair as need shall require].

*Habendum.*

To hold the said premises for the term of — years from the — day of —, one thousand nine hundred and —, paying therefor [monthly] and every [month] during the said term hereby granted unto the lessor the sum of — dollars in each [year], payable in equal portions of — dollars each in advance on the — day of — in each and every [month] during the said term, the first of such payments to be made on the — day of — 19—, and the last of such payments to be made in advance on the — day of — 19—.

*Use of yard restricted.*

Provided that the lessee shall have the use of the yard in rear of the said premises in common with the other tenants thereof, for the purpose of freely taking in or out of the said premises fuel or articles necessary to the lessee; but the lessee shall not place, leave or permit, or suffer to be placed or left by his servants or agents, any boxes, cases, barrels, debris, refuse, fuel or other material (other than ashes from the lessee's heating apparatus, which must be carefully deposited in the ash-house prepared by the lessor for that purpose) in the said yard, the intention being that the lessor shall have entire control of the said yard, in order that it may be kept clean and clear for the use of all the tenants.

*Restricted use of premises.*

And the lessee covenants that he will use the said premises for a [dry goods] shop or store, and for no other purpose.

*Premises now in good repair.*

And the lessor covenants with the lessee that the said messuage and appurtenances are now in good and substantial repair, and that the lessor will repair any damage arising from the lack of such repair at this present time upon reasonable notice to him by the lessee.

*Lessee's admission as to state of repair.*

The lessee admits and agrees that the plumbing work and drains in and about the said premises are now in a sanitary and satisfactory condition, and that the premises are now clean and in a good state of repair.

*Compliance with municipal health regulations.*

The lessor and the lessee further agree that upon request being made or notice being given by the [city] health officer or other proper corporation officer of the said [city] to the lessee or the lessor, the lessee shall immediately comply with the demands contained in such request or notice in connection with the sanitary arrangement of the said premises, and shall put and place all plumbing work and drains in such a state as to fully comply with the requirements demanded by the said health officer or other officer, or the requirements of the Board of Health of the said [city], and to the satisfaction of the [city] official having charge of such matters, and will save the lessor harmless and indemnified in connection therewith or of the infraction of the rules and requirements of the [city] health department, and if not done as aforesaid the lessor may do the same and may charge the cost thereof against the lessee, and shall have the same rights to recover the moneys so expended as if they were arrears of rent in respect of the said demised premises.

*Sidewalks to be kept clear.*

And the lessee covenants that he will keep the side-walks about the said premises clear of snow and ice and of any obstructions, as required by the by-laws and regulations of the [city] of —.

*Gratings, etc., to be kept in repair.*

And that the lessee will, at all times during the said term, well and sufficiently repair and keep in repair and in a safe condition for passage over and upon the same, all area gratings, trap doors and other coverings of areas, coal chutes or manholes upon or in connection with the said premises.

*Insurance.*

And that the lessee will insure and keep insured against fire, during the whole of the said term, the buildings for the time being on the said premises, in some responsible [old line] insurance company [approved of by the lessor] in the sum of — dollars, and will, if requested so to do, produce the receipts for the premiums of such insurance for the then current year to the lessor or his agent.



*Painting.*

And that the lessee will once in every [four] years of the said term paint with two coats of good oil paint, and in a proper and workmanlike manner, the outside wood and iron work of the said premises, of a colour to be approved of by the lessor, and in the same manner all additions to the said premises as often as the same shall be needed, and will in like manner once in every [seven] years of said term paint such parts of the inside wood work as have been usually painted, and of colours to be approved of by the lessor.

*Garden and lawn to be kept in order.*

And that the lessee will during the said term keep up and preserve in good order and condition the lawn and garden belonging to the said premises, and carefully protect and preserve all orchard, fruit, shade and ornamental trees, bushes, shrubs, plants and flowers, now growing and henceforth during the said term to grow therein, from waste, injury or destruction, and will carefully prune, manure, cultivate and care for the same if and as often as they may require, and will not suffer or permit any horses, cattle or sheep to have access to the orchard on the said premises, and that the lessee will replace such of the bushes and shrubs as may die or require replacing, provided that it shall not be incumbent upon him to keep or deliver up the said premises in a better state of repair or condition than they are at present.

*Premises not to be altered or added to.*

And that the lessee will not during the said term make or suffer any alterations or additions to or erect any new buildings upon the said premises without having first submitted a plan or specification thereof to the lessor and obtained his approval thereof in writing.

*Hay and manure to be left.*

And that the lessee will leave upon the said premises all the unspent hay, straw and root crops and all manure and compost, for the benefit of the lessor or the incoming tenant, who shall pay a reasonable price therefor, in case of dispute to be settled by a valuator agreed upon by the parties hereto [or as may be agreed].

*Notice to let or sell may be put up.*

And that the lessor or his agent may at any time within — months before the expiration or sooner determination of the said term enter upon the said premises and affix a notice for selling or re-letting the same, which notice shall be affixed [*describe place agreed on*] and shall not be more than — inches in length by — inches in height, and that the lessee will not remove the same.

*Lessor's right to enter and exhibit premises.*

And that the lessee will permit the lessor or his agents to make such repairs to and alterations in the said premises as he shall deem necessary and to exhibit the said premises to any prospective tenant or purchaser, and will permit all persons having written authority therefor to view the said premises at all reasonable hours.

*Light and air.*

And the lessor covenants that no building shall at any time be erected in the rear of the said premises so as to obstruct or interfere in any manner with the access of light or air to the said premises.

*Rent, taxes and rates.*

The said lessee covenants with the said lessor to pay rent and to pay taxes (*c*), except for local improvements (*d*), [and to pay all water and gas rates and electric lighting which shall be assessed or chargeable upon the said premises during the term hereby demised, or during the time the lessee shall occupy the said premises as tenant to the lessor under these presents]. Provided and it is hereby agreed that when and so often as the lessee neglects or omits to pay the said water rates, gas rates and electric lighting the lessor may pay them, and may thereupon charge them to the lessee, who hereby covenants to pay them forthwith, and hereby agrees with the lessor that the lessor shall have the same remedies and may take the same steps for the recovery thereof as the lessor might take for the recovery of rent in arrears under the terms of this lease,

(*c*) Statutory covenant.

(*d*) See note (*a*) on p. 407.

*Other covenants (e).*

And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and to keep up fences and not to cut down timber, and that the said lessor may enter and view state of repair, and that the said lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and will not assign or sub-let without leave [but such consent shall not be unreasonably or arbitrarily withheld to an assignment or sub-letting of the said premises to a respectable and responsible person, and will not carry on upon the premises any business or occupation which may be offensive or annoying to the lessor, or which shall be deemed a nuisance or by which the said premises or any building thereon shall be injured or by which the insurance of the said premises will be increased]; and that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted. Provided that the lessee may remove his fixtures (*f*). Provided that in the event of fire, lightning or tempest, rent shall cease until the premises are re-built. Proviso for re-entry by the said lessor on non-payment of rent [whether lawfully demanded or not], or non-performance of covenants [or seizure or forfeiture of the said term for any of the causes herein mentioned]. The said lessor covenants with the said lessee for quiet enjoyment.

*Lessee may remove fixtures.*

It is hereby agreed that if the lessee shall, during the said lease, affix to or erect on the said premises any fixture or building [which shall be so affixed or erected instead of some fixture or building affixed to or being on the premises at the date of the commencement of the said lease] then such fixture or building shall belong to and be removable by the lessee at any time during the said term, or within [twenty-one] days after the determination thereof: Provided that the lessee shall make good all damages to the said premises by such removal, and shall give [one month's] previous notice in writing to the lessor of his intention to remove such fixture; and at any time before

(*e*) All the covenants in this paragraph are statutory except those within square brackets.

(*f*) See also next paragraph.

the expiration of the notice of removal the lessor, by notice in writing to the lessee, may elect to purchase such fixture at a fair value [or, at a value to be fixed by arbitration, as follows: *here describe method of arbitration*]; and thereupon such fixture shall be left by the lessee and become the property of the lessor.

*Lessee not to claim exemptions.*

And the lessee covenants and agrees with the lessor that notwithstanding anything contained in section 30 of chapter 170 of the Revised Statutes of Ontario, 1897, or in any other section of the said Act, or of any other Act which has been or may hereafter be passed in amendment thereof, none of the goods or chattels of the lessee at any time, during the continuance of the term hereby created, on the said premises shall be exempt from levy by distress for rent in arrear by the lessee, as provided for by the said section of the said Act above named, and that upon any claim being made for such exemption by the lessee, or on distress being made by the lessor, this covenant and agreement may be pleaded as an estoppel against the lessee in any action brought to test the right to the levying upon any such goods as are named as exempted in said section, the lessee waiving, as he hereby does, all and every benefit that could or might have accrued to him, under and by virtue of the said section of the said Act, or amendment thereto, but for the above covenant.

*Lessee in business difficulties, or premises vacant, etc.*

*Powers of lessor and right of re-entry (g).*

And it is hereby agreed between the parties hereto that if the term hereby granted or any of the goods and chattels of the lessee shall at any time during the said term be seized or taken in execution or attachment by any creditor of the lessee, or if a writ of execution shall issue against the goods or chattels of the lessee, or if the lessee shall make any chattel mortgage or bill of sale of any of his goods or chattels, or any assignment for the benefit of creditors, or becoming bankrupt or insolvent shall take the benefit of any Act which may be in force for bankrupt or insolvent debtors [*in the case of the lessee being an*

(g) See also next clause.

*incorporated company add*, or if any petition is filed or presented for the winding up of the said company] or in case the said premises become vacant (*h*) and unoccupied for the period of [ten] days or be used by any other persons than such as are entitled to use them under the terms of this lease, or in case they shall be used for any other purpose than as above provided, or in case the lessee shall attempt to abandon the said premises, or to sell and dispose of his goods and chattels so that there would not in the event of such sale or disposal be a sufficient distress on the said premises for the then accruing rent, then and in every such case the then current and next ensuing [quarter's] rent and the taxes for the then current year (to be reckoned upon the rate for the previous year, in case the rate shall not have been fixed for the then current year) shall immediately become due and be paid; and the lessor may re-enter and take possession of the said premises as though the lessee, or his servants or any other occupant of the said premises, was holding over after the expiration of the said term, and the said term shall, at the option of the lessor, forthwith become forfeited and determined, and in every of the above cases such taxes or accrued portion thereof shall be recoverable by the lessor in the same manner as the rent hereby reserved.

*Powers of lessor on default, or breach of covenants.*

If the rent reserved or any part thereof be in arrear or unpaid for — days next after the same becomes due, whether such rent has been demanded or not, or if there be default, breach or non-observance by the lessee at any time or times in respect of any covenant, proviso, condition or reservation herein contained which on the part of the lessee ought to be observed or performed, then the lessor or his agents may enter upon the premises and thereafter have, possess and enjoy them as if this indenture had not been made; and no acceptance of rent subsequent to any breach or default other than non-payment of rent, nor any condoning, excusing or overlooking by the lessor on previous occasions of breaches or defaults similar to that for which re-entry is made shall be taken to operate as a waiver of this condition, nor in any way to defeat or affect the rights of the lessor hereunder.

(*h*) An alternative clause will be found on p. 419.

*Lessor may follow goods removed.*

Provided also that in case of removal by the lessee of his goods and chattels from off the said premises the lessor may follow them for thirty days in the manner provided for in the Act respecting fraudulent and clandestine removal of goods (*i*).

*Lessor may follow and sell goods removed.*

And the lessee further agrees that if he leaves the said premises leaving any rent owing and unpaid the lessor may seize and sell the goods and chattels of the lessee at any place to which the lessee or any other person may have removed them, whether on or off the demised premises.

*Lessor may purchase buildings on termination of lease;  
value to be fixed by arbitration.*

And it is hereby agreed that the lessor, on the determination of the term hereby granted or any renewal thereof, may purchase the buildings, erections and improvements then on the lands hereby demised at a price to be determined, in case of dispute by a single arbitrator, if the parties agree upon one, otherwise to three arbitrators of whom the lessor shall appoint one, the lessee one, and the two arbitrators thus appointed shall appoint a third, and shall have all necessary powers of valuing and appraising such buildings and improvements and shall appoint a time for payment of the value thereof so ascertained, and the award of such single arbitrator or a majority of such three arbitrators shall be final between the said parties, and the expense of the said arbitration shall be borne [equally between the parties hereto.]

*Lessee may purchase premises.*

And the lessor covenants that he will, upon payment to him by the lessee at any time within — years from the date hereof of — dollars, convey the premises hereby demised to the lessee, or to whomsoever he may direct or appoint.

*Destruction of premises (j).*

Provided that if the premises hereby demised shall at any time during the term hereby agreed upon be destroyed by fire,

(i) 11 Geo. II., c. 19, s. 1.

(j) Another clause, fair to both parties, will be found on p. 419.

lightning or tempest so as, in the opinion of the lessor, to be a total loss, then the rent hereby reserved shall be forthwith payable up to the time of the destruction of the said premises, and the said term shall immediately become forfeited and void and the lessee shall be relieved from all further liability hereunder and the lessor may forthwith re-enter and take possession of the said premises.

Provided further that if the said premises are only partially destroyed by any of the causes aforesaid, then and so often as the same shall happen the lessor may, at his option, either forthwith rebuild and make the said premises fit for the purposes of the lessee, and the rent hereby reserved or a proportionate part thereof, according to the nature and extent of the injury sustained, shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the lessee, or the lessor may, at his option, instead of rebuilding, by notice in writing mailed to the lessee at his last known address forthwith determine and put an end to this lease, and the lessor may thereupon recover the rent due and accruing due up to the time the said premises became unfit for occupation as aforesaid, and may deal with the said premises as fully and effectually as if these presents had not been entered into.

Provided also that if the lessor shall not exercise the said option to determine the said lease but shall proceed to forthwith rebuild the said premises and to make them fit for the purposes of the lessee, in case any dispute shall arise between the lessor and the lessee as to whether the said premises have been rebuilt or made fit for the purposes of the lessee within the terms of this proviso so as to entitle the lessor to recover from the lessee the rent for the said premises, then and so often as the same shall happen the lessor may, at his option, thereupon determine and put an end to this lease by notice in writing as aforesaid, and the said lease shall thereupon become forfeited and void, and the lessor may forthwith recover the rent for the said premises due up to the time of the happening of any of the events aforesaid, and may take immediate possession of the said premises.

*(Another clause.)*

And it is hereby declared and agreed that in case the buildings or premises hereby demised, or any part thereof, shall, at any time during the term hereby granted, be damaged by fire, but so as not to render them unfit for the purposes of the lessee, then and so often as the same shall happen a reduction or abatement from the rent hereby reserved, proportionate to the nature and extent of the injury sustained, shall be made until the said premises shall have been repaired by the lessor, rebuilt or made fit for the purposes of the lessee, and if they be burned down or so damaged as to be unfit for the purposes of the lessee the term hereby demised shall cease and the current [month's] rent shall be apportioned and the due proportionate part thereof shall be immediately payable. In case of any partial damage by fire the lessee shall, within three days, give notice in writing to the lessor as to whether such damage renders the place unfit for his purposes as aforesaid or not, and if no such notice is given the said premises shall not be deemed to be so unfit.

*Re-letting if premises become vacant (k).*

Provided also that if the said premises shall at any time become vacant during the said term in consequence of the removal of the lessee for non-payment of rent by legal process or any other cause, the lessor may re-enter the said premises and use such force for that purpose as the lessor shall think fit, without being liable to any prosecution therefor, and may thereupon treat the said lease as terminated and re-let the said premises for his own use, or the lessor may re-let the said premises as agent of the lessee, applying the avails thereof to the expenses that may accrue in re-entering and then to the payment of the rent due under these presents and the balance to pay over to the lessee, or may hold the lessee for any balance remaining due after so applying the proceeds.

*Renewal of lease.*

And the lessor covenants with the lessee that if the lessee duly and regularly pays the said rent, and performs all and every the covenants, provisoes and agreements herein contained,

(k) See also p. 415.



and on the part of the lessee to be paid and performed, the lessor will, upon the request and at the cost of the lessee, — months previous to the expiration of the term hereby granted and of every succeeding term of — years obtained under this provision grant to the lessee a renewed lease of the said premises for a further term of —, at the same rent [*or, at — dollars per month, or, at a rent to be determined by arbitration in the manner hereinbefore mentioned*] and subject to the same covenants, provisos and agreements as are herein contained [*or as may be agreed*].

[It being hereby agreed between the parties hereto that the amount of such [increased] rent shall be settled by the award of three indifferent parties, or of a majority of them, one to be named by the lessor, and another by the lessee, at least — days before the expiration of the term hereby granted and of every succeeding term thereafter, and the two arbitrators thus chosen shall forthwith select a third, and their award or the award of a majority of them shall be made before the expiration of the then existing term. Provided that the expense of the said arbitration shall be borne equally between the parties hereto, but the said new lease shall be prepared by and at the sole expense of the lessee. And lastly if the lessee shall neglect or refuse to name his arbitrator in the premises within the time hereinbefore limited, or to proceed with the said arbitration, the arbitrator named by the lessor shall proceed and fix the said [increased] rent to be paid for the next ensuing — years, and his award shall be final, and in case the lessee shall not prepare and execute the lease for such further term of — years and tender it for execution by the lessor on the expiry of the then existing term, all right of the lessee to such renewal lease shall cease and be null and void, and the lessor may enter into and take possession of the said premises in his first and former estate, discharged from all right and claim of renewal by the said lessee.]

*Covenants to be binding on legal representatives.*

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### LEASE OF HOUSE.

*(Short form.)*

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of —, hereinafter called the lessor, of the first part, and — of —, hereinafter called the lessee, of the second part.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained, on the part of the lessee to be paid, observed and performed, the lessor hereby demises and leases unto the lessee all that messuage or tenement, situate, etc.

To have and to hold the said demised premises for and during the term of — years from the — day of — 19—, yielding and paying therefor the yearly rent of — dollars in even portions on the — days of — and — in each year during the said term, the first payment to be made on the — day of — next.

The lessee covenants with the lessor to pay rent and to pay taxes, except for local improvements (*l*), and to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and that the lessor may enter and view state of repair, and that the lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and will not assign or sub-let without leave, and that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted. Provided that the lessee may remove his fixtures. Provided that in the event of fire, lightning or tempest rent shall cease until the premises are re-built.

And it is hereby declared and agreed that if the term hereby granted shall be at any time seized or taken in execution or in attachment by any creditor of the lessee, or if the lessee shall make any assignment for the benefit of creditors, or becoming bankrupt or insolvent shall take the benefit of any Act that

(*h*) See note (*a*) on p. 407.

may be in force for bankrupt or insolvent debtors, the then current [quarter's] rent shall immediately become due and payable, and the said term shall, at the option of the lessor, immediately become forfeited and determined.

Proviso for re-entry by the lessor on non-payment of rent, [whether lawfully demanded or not,] or non-performance of covenants; [or seizure or forfeiture of the said term for any of the causes aforesaid].

The lessor covenants with the lessee for quiet enjoyment.

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### LEASE OF FURNISHED HOUSE (*m*).

##### WITH USE OF GARDEN.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of —, hereinafter called the lessor, of the first part, and — of —, hereinafter called the lessee, of the second part.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained by the lessee to be paid, observed and performed, the lessor doth hereby demise and lease unto the lessee all that certain house and premises in the [town] of — known as number —, — street, together with the outbuildings, stable, garden and appurtenances thereto belonging; together with the use of the fixtures, furniture, plate, linen, utensils and effects (the receipt whereof in good order and condition is hereby acknowledged by the lessee) and all of which are more particularly set out in the schedule hereto annexed; together with the right to such produce of the garden as the lessee shall require for the use of himself and his establishment.

To have and to hold the said premises for and during the term of — [months] from the — day of — 19—, yield-

(*m*) See form of lease on page 408 for special clauses.

ing and paying therefor to the lessor the [yearly] rent of — dollars in even portions [in advance] on the — day of each [month] during the said term, the first payment to be made on the — day of — 19—.

And the lessee covenants with the lessor to pay rent and to pay [telephone, gas, electric light and] water rates from the — day of — 19—, and to pay all damages or breakages caused or permitted by the lessee by reason of want of such care as would be given by an owner of the said premises under like circumstances, and to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and to keep up fences [and not to cut down timber] and that the lessor may enter and view state of repair and that the lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and will not assign or sublet without leave, and will not carry on any business that shall be deemed a nuisance, or by which the insurance on the said premises will be increased, and that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

Provided that the lessee may remove his fixtures. Provided that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt, or, at the option of the lessor, that the term hereby granted shall in such case forthwith come to an end, and the lessee shall cease to be held liable for any rent agreed to be paid under the above covenants except in respect of such rent as shall have already accrued due, and the lessee shall be entitled to be repaid by the lessor any rent paid in advance at such time and not yet due.

And that the lessee will return to the lessor at the end of the said term the articles mentioned in the schedule hereto annexed in good repair and condition, ordinary wear and tear and damage by fire not caused by the carelessness of the lessee or the act of Providence only excepted, and that he will replace such articles as shall be broken, damaged or missing with other articles of a like pattern and equal value.

And that he will employ a competent gardener to have charge and take proper care of the garden, and the trees, shrubs and flowers therein.

And the lessor covenants that the said house and premises are now in good and substantial repair, and that any damage arising from want of such repair at this time will be made good by the lessor within a reasonable time after notice to him by the lessee.

Proviso for re-entry by the lessor on non-payment of rent or non-performance of covenants.

The lessor covenants with the lessee for quiet enjoyment.

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc,

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#### LEASE OF FURNISHED APARTMENTS.

AGREEMENT made the — day of — 19—, between —, hereinafter called the landlord, and —, hereinafter called the tenant.

The landlord lets (*n*) and the tenant takes all those [three] rooms [*describing them*] on the [first] floor of the dwelling house no. — in — street, with all the furniture and effects therein, as specified in the schedule hereto, the landlord to supply necessary linen and to furnish proper heating and reasonable lighting [*or as may be agreed*]. [*Where use of kitchen is desired, add,* with right to the tenant to the use of the kitchen [and kitchen utensils] at all reasonable hours for the cooking requirements of the tenant] and the use in common with the landlord of the passages, staircases, yard, cellar and conveniences of the said dwelling house and the right to burn the necessary amount of fuel for such purposes.

To hold the same for the term of — [months] commencing on the — day of — 19—, at the [monthly] rent of — dollars payable on the — day of — in each [month].

(*n*) Leases for short terms are frequently called "agreements" and are made by the words "agrees to let." These words, however, are words of actual demise, so it is preferable to avoid any doubt as to the effect of the instrument and to use merely the word "lets."

The landlord agrees to keep such sufficient servants for services in respect of attendance and for cleaning the said rooms as the tenant may reasonably require [*or*, to provide that the front door-bell shall be answered to callers upon the tenant].

The tenant agrees to preserve the said furniture and effects in as good a condition as they now are (reasonable wear and tear and damage by fire excepted) and not to remove any part thereof from the premises, and at the determination of the tenancy to deliver up the said premises, furniture and effects in such condition as aforesaid, or if any of the furniture or effects shall have been broken or damaged (except by fire or other cause not under the tenant's control) to pay to the landlord the value thereof or the amount of the damage done, as the case may be.

The landlord agrees to pay all rates and taxes of every kind which become payable in respect of the said premises during the tenancy.

If the said rent or any part thereof is not paid on the day when it is due [*or*, if any payment is in arrear for more than — days] the landlord may [without previous notice] re-enter and take possession of the said premises, furniture and effects, and thereupon the tenancy shall cease, but without prejudice to any claim which the landlord may have against the tenant hereunder.

Neither party shall permit to be done upon the premises anything which may reasonably cause annoyance to the other, or, in the case of the tenant, to the other lodgers or tenants of the landlord, and the landlord shall be responsible for the observance of a like duty by other occupants of the house.

Either party may terminate the tenancy by giving to the other [one week's] notice in writing expiring on the [Saturday] in any week [*or*, upon breach by the other party of any stipulation herein upon his part contained].

AS WITNESS, etc.

#### SCHEDULE.

#### INVENTORY OF FURNITURE.

## LEASE OF UNFURNISHED LODGINGS (o).

*(Short form.)*

AGREEMENT made the — day of — 19—, between — of — and — of —.

The said — hereby lets and the said — takes the [two] rooms on the [first] floor of the house number — in — street in the [town] of —, for — [months] beginning on the — day of — 19—, at the monthly rent of — dollars, and so on from month to month until this tenancy is terminated by either party giving to the other one [month's] notice.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## LEASE OF OFFICES (p).

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of —, hereinafter called the lessor, of the first part, and — of —, hereinafter called the lessee, of the second part.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the lessee to be paid, observed and performed, the lessor doth hereby demise and lease unto the lessee for use and occupation as —, and for no other purpose, all those certain premises forming part of the lessor's building known and described as room —, etc.

To have and to hold the said demised premises for the term of —, to be computed from the — day of — 19—, paying therefor yearly and every year during the said term unto the lessor the sum of —, to be payable on the following days and times, that is to say: on the [first] day of each of the months of — in each year, the first of such payments to become due and be made on the — day of — next.

The lessee covenants with the lessor to pay rent and to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and that the lessor may enter and

(o) See also previous form.

(p) See also special clauses in form on p. 408.

view state of repair, and that the lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and will not assign or sublet without leave, and that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and will not carry on any business on the said premises which shall be deemed a nuisance, or be improper, noisy or contrary to law, or to any by-law of the [city] of —, for the time being in force, or by which the said premises or any building thereon shall be injured, or by which the insurance on the block or building shall be increased, and will during the said term use and occupy the said premises as and for a —, and for no other purpose.

Proviso for re-entry by the lessor on non-payment of rent, [whether lawfully demanded or not], or non-performance or non-observance of covenants, or seizure or forfeiture of the said term for any of the causes herein mentioned. This proviso shall extend and apply to all covenants herein contained, whether positive or negative.

The lessor covenants with the lessee for quiet enjoyment. And the lessor further covenants with the lessee:

1. To heat the said premises with steam or other apparatus in such manner as to keep (if required by the lessee in writing) the temperature of the said premises at not less than [sixty-five] degrees Fahrenheit during each day from the — day of — in each year until the — day of — ensuing (Sundays and holidays excepted), from the hour of — a.m. to the hour of — p.m., and in case the apparatus or any part thereof used in effecting the heating of the said premises at any time becomes incapable of heating the said premises as aforesaid, or be damaged or destroyed, the lessor shall have a reasonable time within which to repair the said damages; and the lessor covenants with the lessee to replace and repair the said apparatus with all reasonable speed, but the lessor shall not be liable for indirect or consequential damages, or for damages for personal discomfort or illness.

2. To give free use to the lessee (in common with other tenants of the said building), his agents, clerks, servants and all other persons seeking communication with him and them, of the



stairway or passage from — street to the said premises; and also of the elevator in the said building in each day (Sundays, civic and public holidays excepted), and to keep a person in constant attendance from the hour of — a.m. until — p.m., with the exception of Saturdays, when the attendance shall be from — a.m. until — p.m., for the purpose of moving the said elevator; and in case the said elevator shall be injured or destroyed the lessor shall forthwith repair and replace it, and shall have a reasonable time for so doing; and it is agreed that the lessee, his clerks, and all other persons hereby permitted to use such elevator, shall do so at his, her and their sole risk, and under no circumstances shall the lessor be held responsible for any damage for injury happening to any person whilst using such elevator, or occasioned to any person by such elevator or any of its appurtenances, and whether such damage or injury happened by reason of the negligence or otherwise of the lessor or any of his employees, servants, agents or any other person.

3. To supply water from the public main save at such times as the general supply of water may be turned off from the public main, and in case the pipes affording said supply be injured or incapable of affording the same the lessor shall forthwith commence repairing, and shall within a reasonable time effect the necessary repairs.

4. To permit the lessee, in common with other tenants, to use the water-closets and lavatories provided for that purpose, for his clerks, agents and servants, and to keep at all times the said water-closets clean and in good working order, and supplied with water from the public mains, except at such times as are mentioned in the preceding paragraph.

5. To employ a caretaker who shall attend to, wash, dust and otherwise keep clean in a reasonable manner the said premises, and the floors, windows, desks, books and papers connected therewith; but, except as to the obligation to cause such work to be done, the lessor shall not be responsible for any act of omission or commission on the part of the person or persons employed to perform such work, but it is agreed that the lessee shall pay a charge of — dollars per month to the lessor for such caretaking.

The lessee covenants with the lessor:

1. That in case the lessee shall become insolvent or bankrupt, or make an assignment for the benefit of his creditors, or in case of the non-payment of rent at the times herein provided; or in case the said premises or any part thereof become vacant and unoccupied for the period of — days or be used by any other person or persons or for any other purpose than as above provided, without the written consent of the lessor, this lease shall, at the option of the lessor, cease and be void, and the term hereby created expire and be at an end, anything hereinbefore to the contrary notwithstanding, and the then current [month's] rent and — [months] additional shall thereupon immediately become due and payable, and the lessor may re-enter and take possession of the said premises as though the lessee or his servants or other occupant or occupants of the said premises was or were holding over after the expiration of the said term, and the said term shall be forfeited and void.

2. That the rules and regulations attached hereto shall be observed and performed by the lessee and by his clerks, servants and agents.

3. That the lessee shall give to the lessor immediate written notice of any accident or defect in the water-pipes, gas-pipes, or heating apparatus, telephone, electric light or other wires.

And it is further agreed by and between the parties hereto that in the event of such partial or total destruction by fire or other casualty of the said premises, or of the entry, passage or stairway leading thereto, as shall render such premises untenable, or prevent reasonable and convenient access thereto, the rent hereby reserved shall at once cease to accrue and become payable until the said premises, entry, passage or stairway shall be rebuilt or restored to their former condition; but the lessee shall forthwith pay to the lessor the proportionate part of the then current rent accruing up to the time of such partial or total destruction. And in case of total destruction of the said premises the lessee or the lessor may within one month after such destruction, on giving notice thereof in writing to the other of them, terminate this lease.

And it is further agreed that if the lessor shall desire at any time during the said term to take down the said building or any

part thereof, for the purpose of rebuilding, he shall have the right, notwithstanding anything herein contained, to terminate this lease by giving to the lessee — [months'] notice in writing of his intention to do so, which notice need not be given or expire on a gale day, and shall be deemed to be sufficiently served if posted on the door of the said office and a copy thereof sent through the post office to the lessee, addressed to him at —, and the term hereby granted shall absolutely cease and determine at the expiry of the said — [months'] notice; and the lessee will, on the day so fixed, deliver up possession of the said premises to the lessor without cost or damage to the lessor, and will pay the proportion of rent as herein provided up to the date of giving up possession as aforesaid.

It is hereby declared and agreed that these presents and everything herein contained, shall respectively enure to the benefit of and be binding upon the parties hereto their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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RULES AND REGULATIONS  
OF BUILDINGS MENTIONED IN LEASE OF OFFICES (*q*).

(1) The sidewalk, entry passages, elevators, and stairways shall not be obstructed by any of the tenants, or used by them for any other purpose than for ingress and egress to and from their respective apartments.

(2) The floors, skylights and windows which reflect or admit light into passageways, or into any place in the said buildings, shall not be covered or obstructed by any of the tenants. The water-closets and other water apparatus shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, ashes, or other substances shall be thrown therein. Any damage resulting to them from mis-use shall be borne by the tenant who causes it.

(3) No sign, advertisement or notice shall be inscribed, painted or affixed on any part of the outside of the building or inside of the said building, unless it be of such color, size and style,

(*q*) These should be attached to lease; see covenant No. 2 of lessee in preceding form.

and in such places upon or in the said building, as is first designated by the lessor.

(4) Directory boards and interior signs on glass doors will be painted for the tenants by the lessor, the cost of the painting being charged to the tenant in the bill next rendered, or if done by the tenant shall be so done under the supervision and in the manner designated by the lessor.

(5) No tenant shall do or permit anything to be done in the said premises, or bring or keep anything therein, which will in any way increase the risk of fire or the rate of fire insurance on the said building, or on property kept therein, or obstruct or interfere with the rights of other tenants, or in any way injure or annoy them, or conflict with the laws relating to fires, or with the regulations of the Fire Department, or with any insurance policy upon the said building or any part thereof, or conflict with any of the rules and ordinances of the Board of Health, or with any statute or municipal by-law.

(6) The lessor shall in all cases retain the power to prescribe the weight and proper position of iron safes, and all damage done to the building by taking in or putting out a safe, or during the time it is in or on the premises, shall be made good and paid by the tenant who causes it.

(7) In order that the leased premises may be kept in a good state of preservation and cleanliness, each tenant shall, during the continuance of his lease, permit the janitor or caretaker of the lessor to take charge of and clean the said leased premises.

(8) No tenant shall employ any person other than the janitor or caretaker of the lessor for the purpose of such cleaning or of taking charge of the said premises, or lighting fires, or storing or moving coal, wood, or ashes; it being understood and agreed that the lessor shall be in no wise responsible to any tenant for any loss of property from the leased premises, however occurring, or any damage done to the furniture or other effects of any tenant by the janitor or caretaker or any of his employees.

(9) The lessor shall have the right to enter any premises at reasonable hours during the day to examine them, or to make such repairs and alterations as he shall deem necessary for the safety and preservation of the said building, and also exhibit the said

premises to be let, and upon them the usual notice "To Let," which said notice shall not be removed by any tenant during one month previous to the expiration of the lease of the premises.

(10) Tenants, their clerks or servants, shall not make or commit any improper noises in the said building, smoke tobacco in the elevators, or interfere in any way with other tenants or those having business with them.

(11) Nothing shall be thrown by the tenants, their clerks or servants, out of the windows or doors, or down the passages or skylights of the building.

(12) No animals shall be kept in or about the premises.

(13) If the tenants desire telegraphic or telephonic connections, the lessor will direct the electricians as to where and how the wires are to be introduced, and without such direction no boring or cutting for wires will be permitted. If tenants desire to use gas or electric light for lighting their premises, they must arrange with the lessor for the supply thereof, and no gas pipes or electric wire will be permitted which has not been ordered or authorized, in writing, by the lessor; and if the lessor supplies lighting, the accounts therefor must be paid with rent at the next gale day.

(14) The lessor may lock the entrance door on — Street at — o'clock each evening and keep it locked until a reasonable hour the next morning.

(15) The lessor shall have the right to make such other and further reasonable rules and regulations as in his judgment may from time to time be needful for the safety, care and cleanliness of the premises, and for the preservation of good order therein, and such regulations shall be kept and observed by the tenants, their clerks and their servants.

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#### LEASE OF FARM (r).

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of —, hereinafter called the lessor, of the first part, and — of —, hereinafter called the lessee, of the second part.

(r) See also form on p. 408 for additional special clauses, if required.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained, on the part of the lessee to be paid, observed and performed, the lessor doth hereby demise and lease unto the lessee all that certain parcel of land, situate, etc., containing by admeasurement — acres, more or less.

To have and to hold the said demised premises for the term of — years, to be computed from the — day of — 19—, paying therefor yearly and every year during he said term unto the lessor the sum of — dollars, to be payable on the following days and times, that is to say: — dollars in advance in each and every [year] during the said term, without any deduction, defalcation or abatement whatsoever; the first of such payments to become due and be made on the — day of — next.

The lessee covenants with the lessor to pay rent, and to pay taxes, except for local improvements (*s*) and to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and to keep up fences, and not to cut down timber [for any purpose whatsoever, except for rails or for buildings upon the said premises, or for firewood for the lessee's use to be consumed on the said premises], and that the lessor may enter and view state of repair, and that the lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted, and will not assign or sub-let without leave, and will not carry on any business that shall be deemed a nuisance on the said premises, and that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

And the lessee further covenants and agrees with the lessor that the lessee will during the said term cultivate, till, manure and employ such parts of the said premises as are now or shall hereafter be brought under cultivation in a good husbandman-like and proper manner, and will in like manner crop the same by a regular rotation of crops so as not to impoverish, depreciate or injure the soil, and at the end of the said term will leave the said land so manured as aforesaid; and will during the continuance

(*s*) See note (*a*) on p. 407.

of the said term keep down all noxious weeds (*t*) and grasses, and will pull up or otherwise destroy all Canada thistles, ox eye daisy, wild oats, rag weed, burdock and wild mustard which shall grow upon the said premises, and will not sow or permit to be sown any grain infected by smut or containing any foul seeds, and will not suffer or permit any such foul weeds or grasses to go to seed on the said premises; and will cut out and burn all black knot on any plum or cherry trees so often each year during the said term as it appears on such trees, and will cut down and burn any trees infected with the disease known as the yellows; (*u*) and will not plant the barberry shrub on the said lands and will upon [fifteen] days' notice destroy any barberry shrubs then growing on the said lands, and will spend, use and employ in a proper husbandman-like manner all the straw and manure which shall grow, arise, renew or be made thereupon, and will not remove or permit to be removed from the said premises any straw of any kind, manure, wood or stone, and will carefully stack the straw in the last year of the said term, and will each and every year of the said term turn all the manure thereon into a pile, so that it may thoroughly heat and rot so as to kill and destroy any foul seeds which may be therein, and will thereafter, and not before, spread the same on the land.

And will in each and every year of the said term make naked summer fallow of or put some hoe crop in at least — acres of the said premises, and will plough, hoe and otherwise cultivate the same in a thorough farm-like manner, so as to kill and destroy all noxious weeds and grasses which may grow thereon. And will in each and every year of said term seed down with good timothy and clover seed in a proper manner at least — acres of the said premises and will at the expiration of the said term leave at least — acres thereof in grass.

And will carefully protect and preserve all orchard, fruit, shade and ornamental trees on the said premises from waste, injury or destruction, and will carefully prune and care for all such trees as often as they may require it, and will not suffer or permit any horses, cattle or sheep to have access to the orchard on the said premises. And will not allow the manure to be

(*t*) R.S.O., c. 279, ss. 2, 9.

(*u*) R.S.O., c. 280.

placed or to lie against the buildings on the said premises, and will allow any incoming tenant or purchaser to plough the said lands after harvest in the last year of the said term, and to have stabling for one team, and bedroom for one man, and reasonable privileges and rights of way to do the said ploughing.

And the lessee covenants and agrees [*continue as on page 415, line eight, to the words "direct or appoint" on page 417, sixth line from foot of page*].

Provided and it is expressly agreed between the parties hereto, that in case the lessor should desire to sell the said premises during the said term, the said term may be determined at any time upon — weeks' notice by a notice to such effect being delivered to any person upon the said premises, or mailed by posting the said notice at — post office in an envelope addressed to the lessee at — post office, and that the lessee will at the expiration of the time limited by the said notice peaceably and quietly give up possession of the said premises to the lessor; provided that upon such earlier determination of the said term, and after the lessee shall have delivered up possession in manner aforesaid, and paid to the lessor the full proportion of rent and taxes up to the date of such earlier determination the lessee shall be entitled to be compensated for the value of the crops sown and then growing, or of the ploughing done on the said premises in preparing for a crop, the amount of such compensation to be determined by arbitration if the parties cannot agree upon the same.

Proviso for re-entry by the lessor on payment of rent [whether lawfully demanded or not] or non-performance of covenants or seizure or forfeiture of the said term for any of the causes aforesaid.

The lessor covenants with the lessee for quiet enjoyment.

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.



## LICENSE TO GOLF CLUB

## OF LAND FOR LINKS (v).

THIS INDENTURE made the — day of — 19—, between [owner of land] of —, hereinafter called the landlord, of the one part, and [trustees of club], hereinafter called the trustees, of the other part.

WITNESSETH as follows, that is to say:

1. In this indenture the expression "the club" means the — Golf Club, and wherever the context permits includes all persons who now are or hereafter shall be members thereof and all persons who may at any time by the rules of the club be admitted as visitors or temporary or honorary members thereof.

2. The landlord hereby licenses and authorizes the club at all times during the continuance of this agreement to enter upon the [describe land] by themselves, their servants and agents, with all proper tools, implements, machines, horses and carts and lay out and maintain a golf course, and for that purpose to improve, dig up, level, roll, mow and adapt the said land and there to play golf, subject nevertheless to the conditions hereinafter contained.

3. The club shall not, except so far as may be reasonably necessary for laying out and maintaining the said land for a golf course as aforesaid, commit any waste thereon, and in particular shall not, without the permission in writing of the landlord, [root up, cut down or destroy any hedge, trees or bushes or, except for the purposes of making bunkers, break up any turf, or for any purpose (w)] sell or take off the said land any sand, gravel, clay or minerals of any kind.

4. The club may erect and fix in or upon the said land any stiles, bridges, flags, posts, fences, movable sheds and pavilions to be used exclusively for the purposes of the club, and shall, at or before the determination of this agreement, remove the same and restore and make good all damage done thereby.

(v) If a lease of the land is required an ordinary form of lease may be used with the addition of any necessary covenants herein contained.

(w) From the point of view of the club the words within brackets should be omitted, and the wording of the whole clause should be carefully drawn so as not to restrict the powers of the club to improve the links.

5. The trustees shall, so long as the license hereby granted shall not be determined in manner hereinafter provided, pay to the landlord the sum of — dollars yearly on the — day of —, the first of such payments to be made on the — day of — next.

6. The trustees shall be answerable to the landlord for any injury done to any sheep belonging to the landlord upon the land, and for any damage done to the land (except such as is permitted by this agreement) by any persons entering upon the said land in pursuance of this license.

The landlord will not feed or turn out upon the said land any horse, cattle or other animal except sheep, nor will he plough up any part of the said land or grow any hay or other crops thereon, nor will he put any manure or dressing thereon so as to interfere with the playing of golf thereon.

8. The landlord may, by notice in writing, cancel this agreement and revoke the license hereby granted if, at any time the yearly sum agreed to be paid by the trustees be [twenty-one] days in arrear, or if the club has broken any of the conditions herein contained, but except as aforesaid this agreement shall remain in force and be irrevocable until determined by either party hereto by [six] months' notice in writing expiring on the — day of — in any year. Any such notice as aforesaid may be given by the landlord delivering it to the secretary of the club for the time being or to any one of the trustees.

IN WITNESS, etc.

*[Signatures and seals of all parties.]*

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#### ASSIGNMENT OF LEASE.

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the assignor, of the first part, and — of the — of — in the county of —, —, hereinafter called the assignee, of the second part.

WHEREAS by a lease dated the — day of — 19—, made between — as lessor, and the said assignor as lessee, the said lessor did demise unto the said lessee the lands herein-

after mentioned to hold from the — day of — 19—, for the term of — years, at the yearly rent of — dollars, and subject to the lessee's covenants and agreements therein contained.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged) the assignor doth hereby grant and assign unto the assignee all that certain parcel of land, situate, etc., together with the residue unexpired of the said term of years, and the said lease and all benefit and advantage to be derived therefrom.

To have and to hold the same unto the assignee, his heirs, executors, administrators and assigns, subject to the payment of the said rents and the observance and performance of the lessee's covenants and conditions in the said lease contained.

And the assignor hereby covenants with the assignee that, notwithstanding any act of the assignor, the said lease is a good, valid and subsisting lease, and that the rents thereby reserved have been duly paid up to the — day of — last, and the covenants and conditions therein contained have been duly paid and performed by the assignor up to the day of the date hereof.

And that notwithstanding as aforesaid the assignor now has in him good right, full power and absolute authority to assign the said lands and premises in manner aforesaid, according to the true intent and meaning of these presents.

And that subject to the said rent, and the lessee's covenants and the conditions therein contained, the assignee may enter into and upon and hold and enjoy the said lands for the residue of the term granted by the said lease and every renewal thereof (if any) for his own use and benefit, without any interruption of the assignor or any other person whomsoever claiming or to claim by, through or under him.

And that the assignor shall and will from time to time, and at all times hereafter, at the request and costs of the assignee, execute such further assurances of the said lands as the assignee shall reasonably require.

And the assignee hereby covenants with the assignor that the assignee shall and will from time to time during all the

residue of the said term granted by the said lease and every renewal thereof pay the rent and perform the lessee's covenants, conditions and agreements therein respectively reserved and contained, and indemnify and save harmless the assignor therefrom and from all actions, suits, costs, losses, charges, damages and expenses for or in respect thereof.

And it is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### ASSIGNMENT OF LEASE

BY EXECUTORS.

THIS INDENTURE made the — day of — 19—, between A.B. of — and C.D. of — [*executors*] of the one part, and E.F. [*purchaser*] of —, of the other part.

WHEREAS by an indenture dated the — day of — 19—, the lands hereinafter described were demised and leased unto one K.L. of — for the term of — years from —.

AND WHEREAS by an indenture dated the — day of — 19—, the said lands were assigned by the said K.L. to M.N. for the residue of the said term.

AND WHEREAS the said M. N. died on the — day of — 19—, having made his will dated the — day of — 19—, whereby he appointed the said A.B. and C.D. executors thereof, to whom probate thereof was duly granted on the — day of — 19—, by the Surrogate Court of the county of — [*or as the case may be*].

AND WHEREAS the said A.B. and C.D. as such executors have agreed to sell the said leasehold property to the said E.F. for the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars paid by the said E.F. to the said A.B. and C.D. (the receipt whereof is hereby acknowledged) the said A.B. and C.D. as executors as aforesaid, do hereby grant and

assign unto the said E.F. all that certain parcel of land, situate, etc., together with the residue unexpired of the said term of years and the said lease and all benefit and advantage to be derived therefrom.

To hold the same unto the said E.F., his executors, administrators and assigns. Subject to the payment of the rents reserved by and the observance and performance of the covenants and conditions contained in the said lease. And the said A.B. and C.D. covenant with the said E.F., his executors, administrators and assigns, that they have done no act to encumber the said premises.

And the said E.F. covenants with the said A.B. and C.D. that the said E.F., his executors, administrators and assigns, will, during the residue of the said term, pay the rent reserved in and by the said lease and observe and perform the covenants and conditions therein contained, and indemnify and save harmless the said A.B. and C.D. and each of them, and the estate and effects of the said M.N. deceased, from all actions, costs, damages and expenses for or in respect thereof.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### CONSENT OF LESSOR.

##### TO ASSIGNMENT OF LEASE—BY ENDORSEMENT.

I, A.B., the lessor named in the within assignment of lease, hereby consent to the said assignment to E.F., of —, as within written, reserving all rights in respect of future assignments.

WITNESS:

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#### CONSENT OF LESSOR

##### TO ASSIGNMENT OF LEASE—BY SEPARATE INSTRUMENT.

I, A.B., of —, being the lessor of all that certain parcel of land [*or*, messuage and tenement], situate at —, and described in an indenture dated the — day of — 19—, made between me of the one part, and C.D., of the other part, and thereby demised to the said C.D. for a term of — years from the — day of — 19—, do hereby consent to the said C.D. assigning

the said lease and the lands [or, tenement] therein described to E.F. of — for the remainder of the said term [or, for a term of — years from the — day of — 19—], subject to the payment of the rent reserved by and the performance and observance of the covenants, conditions and agreements contained in the said lease. But this consent shall not extend to authorize any further or other assignment or sub-letting of the said lands [or, tenement].

WITNESS my hand this — day of — 19—.

WITNESS:

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### CONSENT OF OWNER

TO ALTERATIONS BEING MADE IN LEASED PREMISES.

I, the undersigned A.B., of —, being the owner of the lands and premises described in a certain lease dated the — day of — 19—, and made between me, the said A.B., of the one part, and C.D. of —, of the other part, subject to the terms thereby granted [which lands and premises (as to the part known as —) are now vested in E. F. of —, by virtue of an assignment of lease dated the — day of — 19—, and made between the said C.D. and the said E.F.], do hereby consent to the alterations to be made in [the front elevation of] the said premises described in the said lease, as shewn on the plan and elevation drawing [hereto annexed].

Provided that all covenants and conditions contained in the said lease [and assignment] shall, so far as applicable, be considered to apply henceforth to the alterations hereby consented to and authorized, as well as to all matters and things mentioned or comprised in the said lease [and assignment].

*[Here insert any special provisions and stipulations necessitated by the particular form of the original lease, care being taken to provide for the event of the insurance on the property being affected by the change in tenancy or by alteration of the premises.]*

WITNESS my hand this — day of — 19—.

WITNESS:

## SURRENDER OF LEASE

BY ENDORSEMENT—WITHOUT COVENANTS.

KNOW ALL MEN by these presents that I, C.D., of —, in consideration of — dollars now paid to me by A. B. of —, [the lessor named in the within lease] the receipt whereof I hereby acknowledge, do hereby assign and surrender unto the said A.B., his heirs, executors, administrators and assigns, the lands and premises described in the within lease and the unexpired residue of the term of years created by the said lease.

Dated at — the — day of — 19—.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## SURRENDER OF LEASE

BY SEPARATE INSTRUMENT—WITH COVENANTS.

THIS INDENTURE made the — day of — 19—, between C. D. of — [lessee], of the one part, and A.B. of — [lessor], of the other part.

WHEREAS by an indenture dated the — day of — 19—, and made between the said A. B., of the first part, and the said C.D., of the second part, the said A.B. did demise and lease unto the said C.D. all that messuage or tenement [or, all that certain parcel of land, *as the case may be*] situate, etc., for the term of — years from the — day of — 19—, at the yearly rent of — dollars, and subject to the covenants and conditions therein contained.

AND WHEREAS the rents and covenants reserved by and contained in the said indenture of lease, and on the part of the said C.D. to be paid, observed and performed, have been duly paid, observed and performed by the said C.D. up to the date of these presents, and the said C.D. has agreed to surrender the said [lands] to the said A.B.

NOW THIS INDENTURE WITNESSETH that [in consideration of — dollars now paid by the said A.B. to the said C.D., the receipt whereof is hereby acknowledged], the said C.D. hereby assigns and surrenders unto the said A.B., his heirs, executors, administrators and assigns, the [lands] comprised in and demised by the

said indenture of lease, to the intent that the unexpired residue of the said term of — years created by the said indenture of lease, and all other the estate and interest of the said C.D. in the said lands, under or by virtue of the said indenture, may be merged and extinguished in the reversion and inheritance of the said [lands].

And the said C.D., for himself, his heirs, executors and administrators, hereby covenants with the said A.B., his heirs, executors, administrators and assigns, that he, the said C.D., now hath in himself good right, full power and absolute authority to assign and surrender the said lands in manner aforesaid, and that he hath not, at any time, done or executed any act, deed, matter or thing whereby the unexpired residue of the said term is, shall or may be in any wise charged or incumbered.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### APPLICATION FOR LEAVE TO ASSIGN OR SUB-LET.

BY TENANT TO LANDLORD.

To [landlord's name and address].

I, the undersigned, pursuant to a provision contained in a lease dated the — day of — 19—, made between — and —, whereby the premises therein described were demised to me for a term of — years from the — day of — 19—, do hereby apply to you for your license and authority to assign [or, sub-let] the said premises to [name of proposed transferee] of —, for all my estate and interest in the said demised premises [or, for the term of —, length of sub-term].

Dated the — day of — 19—.

[Signature of tenant.]

#### NOTICE OF INTENTION TO PURCHASE FIXTURES (x).

BY LANDLORD TO TENANT.

I, the undersigned, give you notice that I intend, on the determination of the term created by a lease dated the —

(x) This notice to be given where a proviso in the lease gives the landlord the option of purchasing fixtures which would otherwise be removable by the tenant.



day of — 19— made between [myself] of the one part, and [yourself] of the other part, to purchase such of the fixtures erected by you on the premises at — thereby demised as are specified in the schedule hereto, in accordance with and on the terms specified in the proviso in that behalf contained in the said lease.

Dated this — day of — 19—.

[Signature of landlord.]

SCHEDULE OF FIXTURES INTENDED TO BE PURCHASED.

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NOTICE OF INTENTION TO REMOVE FIXTURES (y).

BY TENANT TO LANDLORD.

I, the undersigned, hereby give you notice that on the determination of the term created by the lease dated the — day of — 19—, from you to me, I intend to remove from the premises at —, demised by the said lease, such of the fixtures erected by me on the said premises as are specified in the schedule hereto, in accordance with the proviso in that behalf contained in the said lease, unless within [one month] from this date you signify your intention to exercise the option of purchasing the said fixtures in accordance with the terms contained in the said lease.

Dated this — day of — 19—.

[Signature of tenant.]

SCHEDULE OF REMOVABLE FIXTURES.

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NOTICE SPECIFYING BREACH OF COVENANTS.

UNDER "THE LANDLORD AND TENANTS ACT," ONTARIO (z).  
To C.D. [tenant].

I hereby give you notice that you have broken the covenants and conditions contained in the lease to you dated the — day of — 19—, [for repairing, or as the case may be], the messuage and premises embraced in the said lease; and I require you

(y) This notice is drawn for the case contemplated by the clause on page 414.

(z) R.S.O. c. 170, s. 13.

to comply with the said covenants and conditions and pay me \$—— as compensation for such breaches.

Dated this —— day of —— 19—.

Yours etc.,

A.B. [*landlord.*]

### NOTICE TO REPAIR.

BY LANDLORD TO TENANT.

I, the undersigned, hereby give you notice [on behalf of ——, your landlord] that the repairs specified in the schedule hereto are necessary to be done to the premises occupied by you at ——, and I require you forthwith [*or, within —— [months] from this date*] to make such repairs and to do all other acts requisite to put the said premises into tenantable repair in accordance with the covenant in that behalf contained in your lease of the said premises.

Dated at —— the —— day of —— 19—.

[*Signature of landlord or agent.*]

SCHEDULE ABOVE REFERRED TO.

[*Specify in detail the repairs required to be done.*]

### NOTICE OF ASSIGNMENT OF TERM.

NOTICE BY TENANT TO LANDLORD.

To [*landlord's name and address*].

I, the undersigned, give you notice that by an indenture dated the —— day of —— 19—, made between myself of the one part and —— [*assignee*] of the other part, I have assigned to the said [*assignee*] all the hereditaments comprised in and demised by a lease dated the —— day of —— 19—, made between [*names of parties to lease*] for all [*or as the case may be*] the unexpired residue of the term created by the said lease.

Dated the —— day of —— 19—.

[*Signature of tenant.*]

## NOTICE OF INTENTION TO DETERMINE LEASE

BY LESSOR TO LESSEE (a).

I hereby give you notice that in accordance with the proviso contained in a lease dated the — day of — 19—, made between myself of the first part, and yourself of the second part, I intend to determine the said lease on the — day of — 19—, and I require you to deliver up possession of the said premises on or before that date.

To — [lessee].

[Signature of lessor.]

## NOTICE TO DETERMINE TENANCY AT WILL.

BY LANDLORD TO TENANT (b).

To [name and address of tenant].

I, the undersigned, hereby determine your interest and right of possession in the premises at — belonging to me now in your occupation, and I require you forthwith to quit and deliver up possession of the said premises.

Dated the — day of — 19—.

[Signature of landlord.]

## NOTICE TO QUIT.

BY LANDLORD TO TENANT.

I hereby give you notice to quit and deliver up to me possession of the premises now held by you as my tenant, situate at — in the [town] of — in the county of —, on the — day of — next or at the end of the year of your tenancy which will expire next after the end of one [half year] from the date of the service of this notice (c).

Dated this — day of — 19—.

To C.D. [tenant]  
or to whom else it may  
concern.

Yours, etc.,

A. B. [landlord.]

(a) See also next following form.

(b) See also preceding form.

(c) As to the expediency of expressing the notice in this alternative form, see *Sidebotham v. Holland*, [1895] 1 Q.B. at p. 389.

## NOTICE TO QUIT.

BY AGENT OF LANDLORD TO TENANT.

To Mr. C. D. [*tenant*].

Sir,—I hereby, as agent for A.B., your landlord, and on his behalf, give you notice to quit and deliver up possession of the premises, situate at —, [*or, in the — of —*] in the county of —, which you hold of him as tenant thereof, on the — day of — next, [*or, at the expiration of the year of your tenancy which will expire next after the end of one [half year] from the service of this notice (c).*]

Dated the — day of — 19—.

Yours etc.,

E. F. of —,

Agent of the above-named A.B.

## NOTICE TO QUIT APARTMENTS.

BY LANDLORD TO LODGER.

To — [*name of lodger*].

No. —, — street, —.

I hereby give you notice to quit and deliver up to me, on or before the — day of — next, possession of the rooms or apartments which you now hold of me in this house.

Dated the — day of — 19—.

[*Signature of landlord.*]

## NOTICE TO QUIT APARTMENTS.

BY LODGER TO LANDLORD.

To — [*name of landlord*].

No. —, — street, —.

I hereby give you notice that I shall, on the — day of — next, deliver up possession of the rooms or apartments which I now hold of you in this house.

Dated the — day of — 19—.

[*Signature of lodger.*]

## NOTICE TO QUIT.

BY TENANT TO LANDLORD.

I hereby give you notice that I shall quit and deliver up to you on the — day of — next the possession of the premises situate at —, which I now hold of you as your tenant.

Dated this — day of — 19—.

To A.B., }  
[landlord.]}

Yours etc.,  
C. D. [tenant.]

## NOTICE TO QUIT.

BY AGENT OF TENANT TO LANDLORD.

To Mr. A.B. [landlord].

Sir,—I hereby, as agent for C. D., your tenant, and on his behalf, give you notice that he will quit and deliver up possession of the [house, farm, *or*, land] and premises, situate at — [*or*, in the — of —] in the county of —, now held by him as your tenant thereof, on the — day of — next.

Dated at — the — day of — 19—.

Yours etc.,  
G. H., of —,  
Agent of the above-named C.D.

## NOTICE OF APPLICATION

FOR WRIT OF POSSESSION UNDER "THE OVERHOLDING TENANTS ACT," ONTARIO (*id.*).

I, —, [*owner*] hereby give you notice that I claim to be entitled to the possession of — [*describe shortly the land or tenement demised to the tenant*] situate —, which you held of me [*or as the case may be*] under a tenancy from year to year [*or as the case may be*] which expired [*or, was determined*] by notice to quit from the said — [*or otherwise, as the case may be*] on the — day of — 19—, and which land [*or, tenement*] is now held over and detained from me —, and that I, —, shall, on — next the — day of — 19—, at — of the

(*d*) R.S.O., c. 171, s.3.

clock in the [fore] noon, or so soon thereafter as the application can be heard, apply at his chambers in the city of — to the county judge of the county of —, being the county [or, district] in which the said land [or, tenement] [or any part thereof] is situated, to appoint a time and place at which he will enquire and determine whether you were tenant, as herein alleged, and whether you wrongfully hold over contrary to the statute in that behalf, and, if he so finds, to grant an order for a writ to cause the said — to have possession of the said land [or, tenement] and for payment of the costs of the proceedings.

Dated at — this — day of — 19—.

A.B. [owner, or, A.B. by his solicitor E.F.]

To Mr. C.D. [tenant].

#### DEMAND OF POSSESSION.

UNDER "THE OVERHOLDING TENANTS ACT," ONTARIO (*et*).

IN THE MATTER of A.B., landlord, against C.D., tenant.

I, A.B. of the — of — in the county of —, —, your landlord, do hereby demand and require you forthwith to go out of possession, and to deliver up to me possession of the lands demised to you, which land I now own, and which you have been permitted to occupy and hold the right of occupation [under and by virtue of a lease dated the — day of — 19—], [or, under a verbal agreement, *as the case may be*, and specifying the nature of the agreement] and which lease and right of occupation have been determined and have expired by effluxion of time [or, breach of the covenants in the said lease, *as the case may be*], which said land may be described as [*describe the land*].

Dated at — this — day of — 19—.

Yours etc.,

To C.D., [tenant].

A.B., [landlord.]

## DEMAND OF POSSESSION.

AT THE END OF A TERM OF YEARS, OTHERWISE DOUBLE RENT  
OR DOUBLE VALUE (e).

To Mr. C.D. [*tenant*].

Sir:—I hereby [as agent for and on behalf of your landlord, A.B.] demand and require you to quit and deliver up possession of *describe the premises shortly* with the appurtenances, situate at — [or, in the — of —] in the county of —, [forthwith; or, if the term has not expired, say, "on the expiration of your term therein, which will expire on or about the — day of — next, or, instant,"] and take notice that if you hold over the said premises after the service hereof [or, the expiration of the term] you will be liable to pay double value [or, double rent] for the said premises, pursuant to the statute in such case made and provided.

Dated at — the — day of — 19—.

Yours, etc.,

A.B. [*landlord*]

[or, E.F. of —, agent of the above named A.B.]

(e) This notice is given under 4 Geo. 2, c. 28, s. 1, and 11 Geo. 2, c. 19, s. 18 (now R.S.O., c. 342, ss. 20, 21) which provide that in case any tenant for any term of life or years shall wilfully hold over any lands, tenements, or hereditaments after the determination of such term, and after demand made and notice in writing given for delivering the possession thereof by the landlord or his agent, such tenant shall during the time he so holds over pay to the landlord at the rate of double the yearly value of the premises. The statute does not apply to a weekly tenant (*Lloyd v. Rosbee* (1810), 2 Camp., 453), nor probably to any tenancy for less than a year; but it applies to a tenancy from year to year (*Ryal v. Rich* (1808), 10 East, 48). The notice may be given either before (*Messenger v. Armstrong* (1785), 1 T.R., 53), or after (*Cobb v. Stokes* (1807), 8 East, 358) the expiration of the tenancy, but in the latter case the landlord must not, since such expiration, have recognized the late tenant as a continuing tenant. The notice must not demand possession at any particular hour on the last day of the term, since the term continues till the end of the day (*Page v. More* (1850), 15 Q.B., 684). Double value cannot be recovered by distress (*Tinnins v. Rowlinson* (1764), 1 W. Bl. at p. 535).

If the tenant has given notice to quit and does not deliver up possession in accordance with the notice, he becomes liable for double rent, to be recovered in the same manner as single rent (Distress for Rent Act, 11 Geo. 2, c. 19, s. 18; R.S.O., c. 342, s. 21). Hence such double rent can be recovered by distress.

## DEMAND OF POSSESSION

TO DETERMINE ANY EXPRESS OR IMPLIED TENANCY AT WILL.

To Mr. C.D. [*tenant*].

I hereby [as agent of and for A.B.] demand and require you forthwith to quit and deliver up possession of the [messuage, land and premises] with the appurtenances, situate at — [or, in the — of —] in the county of —, now in your possession; and you are hereby warned not to commit any waste, spoil or damage in or upon the said premises, or any part thereof.

Dated at — this — day of — 19—.

Yours, etc.,

A.B. [*landlord*]

[or, E.F. of —, agent of the above named A.B.]

## NOTICE TO TENANT

WHO CLAIMS EXEMPTIONS.

(R.S.O., c. 170, s. 32, s-s. 4.)

TAKE NOTICE that I claim \$— for rent due to me in respect of the premises which you hold as my tenant, namely: [*here briefly describe them*]; and unless the said rent is paid I demand from you immediate possession of the said premises; and I am ready to leave in your possession such of your goods and chattels as in that case only you are entitled to claim exemption for.

Take notice further, that if you neither pay the said rent nor give me up possession of the said premises within three days after the service of this notice, I am by law entitled to seize and sell and I intend to seize and sell all your goods and chattels, or such part thereof as may be necessary for the payment of the said rent and costs.

This notice is given under the Act of the Legislature of Ontario respecting the Law of Landlord and Tenant.

Dated this — day of — 19—.

To C.D. [*tenant*].[Signed] A.B. [*landlord*].

A.B.]

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## NOTICE OF SET-OFF BY TENANT

## AGAINST RENT.

(R.S.O., c. 170, s. 33.)

TAKE NOTICE that I wish to set off against rent due by me to you the debt which you owe to me on your [promissory note, wages, or as the case may be; give particulars in detail].

Dated this — day of — 19—.

To A.B. [landlord.]

C.D. [tenant.]

## DECLARATION BY LODGER

## ON SEIZURE OF HIS GOODS BY SUPERIOR LANDLORD.

(R.S.O., c. 170, s. 39.)

ONTARIO, }  
County of —, } IN THE MATTER of a distress for rent by  
To Wit: } — against —.

I, A.B., of —, —, occupying as lodgings rooms in house number —, in — street, do solemnly declare:

That C.D., my landlord, has no right of property or beneficial interest in the furniture, goods and chattels distrained [or, threatened to be distrained] for rent alleged to be due to — [superior landlord], and of which an inventory is hereunder written [or, hereto annexed] but that such furniture, goods and chattels are my property [or, in my lawful possession].

I owe — [immediate landlord] — dollars on account of rent of the said lodgings from — to —, and no more [or, no rent, as the case may be].

The inventory in this declaration is as follows: [Here follows inventory.]

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED, etc.

## DISTRESS WARRANT

LANDLORD TO BAILIFF.

To E.F., my bailiff in this behalf:

DISTRAIN the goods and chattels [and also the cattle and growing crops] of C.D., liable to be distrained for rent in and upon the lands and premises now or lately in the tenure or occupation of —, situate at —, for the sum of — dollars and — cents, being rent for the term of — due to me for the said premises on the — day of — 19—, and for the said purpose aforesaid distrain within the time, in the manner and with the forms prescribed by law all such goods and chattels of the said — wheresoever they shall be found, as have been carried off the said premises but are nevertheless liable by law to be seized for the rent aforesaid. And proceed thereon for the recovery of the said rent as the law directs. And for your so doing this shall be your sufficient warrant and authority. But you are hereby expressly prohibited from distraining upon any property not legally liable to a distress for rent.

WITNESS my hand and seal this — day of — 19—.

WITNESS: }

A. B. [Seal.]

## NOTICE OF DISTRESS

BY LANDLORD'S BAILIFF TO TENANT.

To Mr. C.D. and to others whom it may concern.

TAKE NOTICE that I, —, as bailiff of and for A.B., your landlord, have this day distrained on the lands and premises in your occupation or possession named in the inventory hereunto annexed, the [cattle, growing crops] goods and chattels mentioned in the said inventory for — dollars being — [months] rent due to the said A.B. on the — day of — last for the said premises.

And unless you pay the said rent with the charges of distraining for the same within [five] days from the service hereof \* the said [cattle,] goods and chattels will be appraised and sold according to law.

[*In the case of cattle add, "And take notice that the said cattle and goods have been removed to and are now in the [common pound] in and for the — of — in the county of —."*]

[*In the case of growing crops, substitute the following for what follows the asterisk above; "I shall proceed to cut, gather, make, carry and lay up the said crops, when ripe, in the barn or other proper place on the said premises, and in convenient time sell or dispose thereof in or towards satisfaction of the said rent and the charges of such distress, appraisement and sale, according to law."*]

Dated the — day of — 19—.

[*Signed*] —.

Bailiff of the above-named A.B.

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# LAND TITLES.

## LAND TITLES ACT, ONTARIO (a).

(R.S.O., c. 138.)

By virtue of s. 107 of the Ontario Land Titles Act, a charge or transfer of land registered under the Act need not be under seal. The Act, however, is silent as to the limit of time beyond which the remedy under a covenant in either of these instruments would be barred by the Statute of Limitations. Even assuming that a covenant implied by the Act constitutes a contract by specialty, and therefore continues in force for ten years under R.S.O., c. 72, s. 1 (1) (h), it is doubtful if any covenant not implied by the Act would have any greater force than a simple contract would have, the remedy, under which would be barred after six years. It is advisable, therefore, that these instruments should be under seal.

Where a witness is a clerk in a law office, or other employee, the name of the employer should be given to facilitate identification, and where it is unlikely that the Master of Titles or Local Master is acquainted with the witness, the Commissioner or other person before whom the affidavit is taken should add a certificate of his knowledge of the witness. This may be in the form on page 460.

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## TRANSFER

### OF FREEHOLD LAND, WITH BAR OF DOWER.

(Ss. 41-56. Rule 30.)

#### LAND TITLES ACT.

I, —, of the — of — in the county of —, —, the registered owner of the freehold land registered in the office of Land Titles at — as parcel — in the register for —, in consideration of the sum of — dollars paid to me, transfer to — of the — of — in the county of —, —, the land

(a) For Alberta and Saskatchewan forms, see under those provinces.

hereinafter particularly described, namely: [*here describe land*], being the whole [*or, a part*] of the said parcel.

And I, —, wife of the said —, hereby bar my dower in the said land.

Dated the — day of — 19—.

WITNESS:

[*or, SIGNED, SEALED AND DELIVERED*  
in the presence of]

### AFFIDAVIT OF TRANSFEROR

OF FREEHOLD LAND WHEN DOWER BARRED.

I, —, the transferor named in the above transfer, make oath and say:

That the above-named — is my wife, and we are both over the age of twenty-one years.

SWORN before me at the —  
of — in the county of — }  
this — day of — 19—. }

A Commissioner, etc.

### AFFIDAVIT OF EXECUTION

OF TRANSFER OR MORTGAGE OF LAND WHEN DOWER BARRED.

I, —, of the — of — in the county of —, —, make oath and say:

1. I am well acquainted with — and — named in the within document, and saw them sign the said document, and the signatures purporting to be their respective signatures at the foot of the said document are in their handwriting.

2. The said — is, as I verily believe, the owner of the land within mentioned, and the said — is reputed to be, and is, as I verily believe, his wife.

3. The said — and — are each of the age of twenty-one years or over, are each of sound mind, and signed the said document voluntarily at — in the county of — in the Province of —.

4. I am a subscribing witness to the said document.

SWORN, etc.

## TRANSFER

OF FREEHOLD OR LEASEHOLD LAND, WITHOUT DOWER.

(Ss. 41-56. Rule 30.)

## LAND TITLES ACT.

I, —, of the — of — in the county of —, —, the registered owner of the freehold [*or*, leasehold (*b*)] land registered in the office of Land Titles at — as parcel — in the register for —, in consideration of the sum of — dollars paid to me, transfer to — of the — of — in the county of —, —, the land hereinafter particularly described, namely: [*here describe land*], being the whole [*or*, a part] of the said parcel.

Dated the — day of — 19—.

WITNESS:

[*or*, SIGNED, SEALED, etc.]

## AFFIDAVIT OF TRANSFEROR

OF LAND, WITHOUT DOWER.

I, —, the transferor named in the above document, make oath and say:

That I am of full age and unmarried.

SWORN, etc.

## AFFIDAVIT OF EXECUTION

OF TRANSFER OR MORTGAGE OF LAND, WITHOUT DOWER.

I, —, of the — of — in the county of —, —, make oath and say:

1. I am well acquainted with —, named in the within document, and saw him sign the said document; and the signature purporting to be his signature at the foot of the said document is in his handwriting.

2. The said — is, as I verily believe, the owner of the land within mentioned. The said — is of the age of twenty-one years or over; he is reputed to be, and, as I believe, is unmarried; he is of sound mind, and signed the said document voluntarily at — in the county of — in the Province of —.

(*b*) If leasehold, the demise should be specified for greater certainty.

3. I am a subscribing witness to the said document.  
 SWORN, etc. (c).

### CERTIFICATE

OF PERSON BEFORE WHOM AFFIDAVIT SWORN, AS TO HIS  
 KNOWLEDGE OF THE WITNESS (d).

I, —, the above commissioner [or, notary public, or as the case may be] hereby certify:

That the witness to the foregoing instrument, and who made the annexed affidavit before me, is well known to me, and is a person of good repute.

\* A Commissioner, etc.

### CHARGE OR MORTGAGE

WITH BAR OF DOWER.

(Ss. 33-39. Rule 25.)

LAND TITLES ACT.

I, —, of the — of — in the county of —, —, (hereinafter called the mortgagor), the registered owner of the land entered in the office of Land Titles at — as parcel — in the register for —, in consideration of — dollars paid to me, charge the land hereinafter particularly described, namely: —, being the whole [or, a part] of the said parcel, with the payment to — of the — of — in the county of —, —, (hereinafter called the mortgagee), of the principal sum of — dollars, with interest at the rate of — per cent per annum payable as hereinafter provided, and with a power of sale as hereinafter expressed.

[Here insert such special covenants and provisoes as are desired. For these, see form of Mortgage with special clauses.]

Provided this charge to be void on payment of the said sum of — dollars with interest at — per cent as follows: —, and taxes and performance of statute labour.

(c) Where it is unlikely that the Master of Titles is acquainted with the witness, the commissioner should add the "certificate" next following.

(d) This form is drawn to comply with the note to Form 46 of the Act in the case mentioned in note (c) above.

The mortgagor covenants with the mortgagee that on default the mortgagee shall have quiet possession of the said lands, free from all incumbrances. And that he will insure the buildings on the said lands to the amount of not less than — dollars currency.

Provided that the mortgagee on default of payment for [one] month may on [ten days] notice enter on and lease or sell the said lands, and provided also that in case default be made in payment of either principal or interest for two months after any payment of either falls due the said powers of entry, lease and sale, of either of them, may be acted upon without any notice (*e*). Provided that the mortgagee may distrain for arrears of interest. Provided that in default of the payment of the interest hereby secured the principal hereby secured shall become payable.

[And I, —, wife of the said —, hereby bar my dower in the said land.]

This charge made in pursuance of The Act respecting Short Forms of Mortgages.

Dated the — day of —19—.

WITNESS:

[or, SIGNED, SEALED, etc.]

#### AFFIDAVIT OF OWNER OF LAND

WHEN DOWER IS BARRED.

I, —, one of the parties named in the above charge, make oath and say:

That the above named — is my wife, and we are both over the age of twenty-one years.

SWORN, etc.

#### AFFIDAVIT OF EXECUTION

WHEN DOWER IS BARRED.

[For this affidavit, see p. 456.]

(*e*) *Barry v. Anderson*, 18 A.R. 247.



## AFFIDAVIT OF OWNER OF LAND

WHEN UNMARRIED.

I, —, the mortgagor named in the above charge, make oath and say:

That I am of full age and unmarried.

SWORN, etc.

## AFFIDAVIT OF EXECUTION

WHEN OWNER OF LAND UNMARRIED.

[For this affidavit, see p. 457.]

## TRANSFER OF CHARGE OR MORTGAGE.

(S. 57.)

## LAND TITLES ACT.

I, —, of the — of — in the county of —, —, the registered owner under the Land Titles Act of the charge dated the — day of — 19—, made by — of the — of — in the county of —, —, and registered as number —, charging the land registered as parcel — in the register for —, in consideration of — dollars paid to me, transfer such charge to — of the — of — in the county of —, —, as owner.

[Where it is intended that the charge shall be transferred back on the performance of certain conditions or on the payment of a certain sum, so as to have the effect of a derivative mortgage, a covenant to that effect may be inserted, but a mortgage of a charge cannot be registered under the Land Titles Act. For the above purpose, the covenant following may be used:]

And the said — [transferee] covenants with the said — [transferor] that upon payment by the said — [transferor], his executors or administrators, to the said — [transferee] of the sum of — dollars on or before the — day of — 19—, together with interest thereon at the rate of — per cent per annum, to be computed from the date thereof, and to be payable

[half] yearly, every — day of — and — at the said rate on all arrears, whether of principal money or interest, from and after the days the same respectively become due until actual payment of the same, the said [transferee] will re-assign to the said [transferor] the said charge, subject however, to any release of portions of the mortgaged lands which may have been discharged from the said charge under the terms thereof, it being hereby understood and agreed that all moneys, whether principal or interest, from time to time to be received by the said [transferee] upon the said charge hereby transferred shall be applied by him in discharge of all interest from time to time accrued due upon the said sum of — dollars or the unpaid balance thereof, and the residue to be retained by the said [transferee] and applied by him in or towards payment of interest and principal accruing due thereon whenever the same shall become due, the said [transferee], however, not to be liable for interest on any such residue so retained by him, and the said [transferor] hereby covenants that he will pay the said sum of — dollars and interest thereon as aforesaid.

Dated the — day of — 19—.

WITNESS:

[or, SIGNED, SEALED, etc.]

### AFFIDAVIT OF EXECUTION

#### OF TRANSFER OF CHARGE OR MORTGAGE.

I, —, of the — of — in the county of —, —, make oath and say:

1. I am well acquainted with —, named in the above document, and saw him sign the said document, and the signature at the foot of the said document is in his handwriting.

2. The said — is, as I verily believe, the person of that name mentioned in the above-mentioned charge.

3. The said — is of the age of twenty-one years or over, is of sound mind, and signed the above document voluntarily at — in the county of — and Province of —.

SWORN, etc.

## DISCHARGE OF MORTGAGE

CREATED BEFORE LAND BROUGHT UNDER LAND TITLES ACT.

(S. 30, Rule 35.)

## LAND TITLES ACT.

To the Master of Titles.

I, —, of the — of — in the county of —, —, do certify that — of the — of — has satisfied all money due, or to grow due, on a certain mortgage for the sum of — dollars made by — to — [if the mortgage has not been assigned, insert "me;" if it has been assigned, insert name of original mortgagee, and add "and assigned to me"], which mortgage bears date the — day of — 19—, and was registered in the Registry Office for the — of — on the — day of — 19—, in Liber— for — as number —, and that such mortgage has not been assigned, [If it has been assigned, state particulars of the various assignments, and add, "and that the said mortgage has not been further assigned"] and is entered in the office of Land Titles at — upon parcel — in the register for —.

And I further certify that I am the person entitled by law to receive the said money, and I hereby authorize the Master of Titles to discharge the said mortgage.

Dated this — day of — 19—.

WITNESS:

## AFFIDAVIT OF OWNER OF MORTGAGE.

I, —, above-named, make oath and say:

I am the owner of the above-mentioned mortgage, and the statements contained in the above certificate are true.

Sworn, etc.

## AFFIDAVIT OF EXECUTION

OF DISCHARGE OF MORTGAGE.

I, —, of the — of — in the county of —, —, make oath and say:

1. I am well acquainted with —, named in the annexed certificate, and the signature purporting to be his signature at the foot of the said certificate is in his handwriting.

2. The said — is, as I verily believe, the owner of the mortgage mentioned in the said certificate; he is of the age of twenty-one years or over, is of sound mind, and signed the said certificate voluntarily at — in the county of — in the Province of —.

3. I am a subscribing witness to the said certificate.

SWORN, etc.

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### PARTIAL DISCHARGE OF MORTGAGE

CREATED BEFORE LAND BROUGHT UNDER LAND TITLES ACT.

(S. 30, Rule 35.)

#### LAND TITLES ACT.

To the Master of Titles.

I, —, of the — of — in the county of —, —, do certify that — has satisfied — dollars, part of the money mentioned in a certain mortgage for the sum of — dollars made by — to — [if the mortgage has not been assigned, insert "me;" if it has been assigned, insert the name of original mortgagee, and add, "and assigned to me"], which mortgage bears date the — day of — 19—, and was registered in the Registry Office for the — of — on the — day of — 19—, in Liber — for — as number —, and that such mortgage has not been assigned, [If it has been assigned, state particulars of the various assignments, and add, "and that the said mortgage has not been further assigned,"] and is entered in the office of Land Titles at — upon parcel — in the register for —.

And I further certify that I am the person entitled by law to receive the said money, and I hereby authorize the Master of Titles to discharge from the said mortgage the following lands; [describe the lands to be released], being portion of the lands included in the said mortgage.

Dated this — day of — 19—.

WITNESS:

[For Affidavit of Owner of Mortgage and Affidavit of Execution,  
see p. 462.]

## CESSATION OF CHARGE (f).

CREATED AFTER LAND BROUGHT UNDER LAND TITLES ACT.

(S. 40.)

## LAND TITLES ACT.

To the Master of Titles.

I, —, of the — of — in the county of —, —, the registered owner of the charge made by — to — [*if the charge has not been transferred, insert "me;" if it has been transferred insert the name of original mortgagee, and add, "and transferred to me"*], dated the — day of — 19—, and registered as number — on the land [*or, part of the land*] registered in the office of Land Titles at Toronto as parcel — in the register for —, hereby authorize the Master of Titles to notify on the register the cessation of the said charge [*where only part of the land covered by the charge is to be released, add, "as to the following land," and add a description of the land to be released.*]

Dated this — day of — 19—.

WITNESS:

## AFFIDAVIT OF EXECUTION

## OF CESSATION OF CHARGE.

I, —, of the — of — in the county of —, —, make oath and say:

1. I am well acquainted with —, named in the annexed document authorizing the Master of Titles to notify the cessation of the charge therein mentioned, and the signature purporting to be his signature at the foot of the said document is in his handwriting.

2. The said — is, as I verily believe, the owner of the said charge. He is of the age of twenty-one years or over, is of sound mind, and signed the said document voluntarily at — in the county of — in the Province of —.

3. I am a subscribing witness to the said signature.

SWORN, etc.

(f) Either this form or the one on p. 465 may be used, but this form is sufficient under the Act.

## CESSATION OF CHARGE

CREATED AFTER LAND BROUGHT UNDER LAND TITLES ACT.

*(Another form, certifying payment of mortgage money.)*

(S. 40.)

To the Master of Titles.

I, —, of the — of — in the county of —, —, the registered owner of the charge made by — to — [*if the charge has not been transferred, insert "me"; if it has been transferred, insert the name of the person in whose favour the charge was originally made, and add "and transferred to me"*], which charge is dated the — day of — 19—, and was registered as number — on the land registered in the office of Land Titles at Toronto as parcel — in the register for—, do certify that — of — has satisfied all money [*or, — dollars part of the principal money*] mentioned in the said charge.

And I hereby authorize you the said Master to notify on the register the cessation of the said charge [*or, as to the following land, describing the lands to be discharged, or, to discharge the said charge as to the said sum of money*].

Dated the — day of — 19—.

WITNESS:

## AFFIDAVIT OF EXECUTION

OF CESSATION OF CHARGE.

[*Use form on p. 462, substituting the word "charge" for the word "mortgage" where it occurs.*]

## POWER OF ATTORNEY

TO MAKE TRANSFERS.

(Rule 50.)

LAND TITLES ACT.

I, A B., do appoint C.D. my attorney to transfer to E.F. absolutely [*or, by way of mortgage, as the case may be*] all my lands as entered and described in the register for the township of — in the office of Land Titles at — as parcel —, and my estate therein.

[If such is the intention, add, This power shall not be revoked by my death, and the exercise thereof after my death shall be binding on my representatives.]

Dated this — day of — 19—.

WITNESS: }

A.B.

[No seal necessary.]

### AFFIDAVIT BY ATTORNEY.

TO BE APPENDED WHERE INSTRUMENT EXECUTED UNDER  
POWER OF ATTORNEY.

I, C.D., of —, make oath and say:

That the power of attorney under which I executed the within [or, above] instrument on behalf of A.B. is unrevoked and in full force.

SWORN, etc.

### AFFIDAVIT OF PUBLICATION OF ADVERTISEMENT.

(Rule 10.)

#### LAND TITLES ACT.

IN THE MATTER of the application of —.

I, —, of the — of — in the county of —, —, make oath and say:

1. The advertisement of which a duplicate is hereto annexed, and marked "A," appeared and was published in the issues of the "Ontario Gazette" of the — and — days of — 19—.

2. The advertisement of which a duplicate is hereto annexed, and marked "B," appeared and was published in the issue of "—" newspaper of the — day of — 19—.

3. The advertisement of which a duplicate is hereto annexed, and marked "C," appeared and was published in the issue of the "—" newspaper of the — day of — 19—.

4. I have examined copies of the said Gazette and "—" and "—" newspapers, issued on each of the said days.

SWORN, etc.

## AFFIDAVIT OF POSTING UP ADVERTISEMENT.

(Form 14.)

## LAND TITLES ACT.

IN THE MATTER of the application of —.

I, —, of the — of — in the county of —, —, make oath and say:

1. I did on the — day of — 19—, post up on a conspicuous place in the Court House in the town of — a true copy of the advertisement hereto annexed marked "D," the copy so posted up being a cutting from "—" newspaper.

2. The said advertisement so posted up by me as aforesaid remained affixed up in the said place for the full period of one month, as I verily believe, for the reason that I have visited the said court house on each week since the said advertisement was posted up by me as aforesaid, and saw the said advertisement which still remains so posted.

3. The said court house is the court house of the county in which the lands in question in this matter are situated.

SWORN, etc.

## TAX CERTIFICATE.

(Rule 7.)

## LAND TITLES ACT.

Treasurer's office, county of —, the — day of — 19—.

I certify that no charge for arrears of taxes, charges, or assessments, or for water or other rates, appears at the date hereof in the books of this office against [*shortly describe the lands*].

I further certify that the returns of lands in the — of — in arrears for taxes for the year 19— and all previous years have been made to this office.

And I further certify that the said land has not been sold for taxes for eighteen months preceding the date hereof.

[Signed] —,  
Treasurer.



## CAUTION AGAINST FIRST REGISTRATION.

(S. 85. Rule 20.)

## LAND TITLES ACT.

I, —, of —, have such an interest in the land herein-after particularly described as entitles me to object to any disposition thereof being made without my consent, and I am entitled to notice of any application that may be made for the registration of such land.

The following is a particular description of the said land, that is to say, [*here insert description of land to be affected by the caution*].

My address for service of notice is —, in the — of — in the county of —; my post office address is —.

Dated this — day of — 19—.

[*Signature of the cautioner or his solicitor.*]

---

## AFFIDAVIT IN SUPPORT OF CAUTION

LODGED AGAINST FIRST REGISTRATION.

(S. 85. Rule 20.)

## LAND TITLES ACT.

I, —, of —, make oath and say as follows:

My interest in the land described in the above [*or, annexed*] caution entitles me to object to any disposition of the said land being made without my consent, and the nature of such my interest is as follows: [*here state particulars of cautioner's interest.*]

SWORN, etc.

---

## CAUTION AFTER REGISTRATION.

(S. 75. Rule 21.)

## LAND TITLES ACT.

I, A.B., of —, being interested in the land registered in the name of G.H., as parcel — in the register for the [township] of — [*or, in the charge registered as number — in the name of E.F. of — as owner and being on parcel — (township) of (as the case may be)*] require that no dealing with such land

[*or, charge*] be had on the part of the registered owner until notice has been served upon me.

My address for service of notice is lot — in the — concession in the county of —, and my post office address is —.

Dated this — day of — 19—.

[*Signature of the cautioner or his solicitor.*]

---

### AFFIDAVIT IN SUPPORT OF CAUTION

LODGED AFTER REGISTRATION.

(S. 75. Rule 21.)

LAND TITLES ACT.

I, —, of —, make oath and say as follows:

I am interested in the land [*or, charge*], mentioned in the above [*or, annexed*] caution and the particulars of my interest are as follows: [*here state particulars.*]

SWORN, etc.

---

### APPLICATION FOR NOTICE TO TERMINATE CAUTION

IN RESPECT OF LAND.

(S. 76. Rule 22.)

LAND TITLES ACT.

A.B., the registered owner [*or, the transferee of C.D. the registered owner*] of the land registered as parcel number — in the register of Land Titles for the [township] of — in the name of the said A.B. [*or, C.D.*] applies to the Master of Titles for a notice to be served with a view of terminating caution no. —, lodged by E.G. requiring that no dealing with the said land should be had on the part of the registered owner until notice [*etc., according to the terms of the caution*].

This application is made because [*state grounds of application*].

The address of the said A.B. for service is the office of his solicitor, X.Y. [*give address*].

Dated this — day of — 19—.

X.Y.

Solicitor for A.B.

## AUTHORITY TO NOTIFY WITHDRAWAL OF CAUTION.

(Rule 22.)

## LAND TITLES ACT.

I, A.B., of —, who registered a caution in respect of the land registered as parcel No. —, in the register for the [township] of — [or, in respect of a charge registered as number —, and being on parcel no. — [township] of —, *as the case may be*] hereby authorize the Master of Titles to enter in the register a withdrawal of the said caution and to cancel the same.

Dated the — day of — 19—.

WITNESS: }

[Signed] A.B.

## AFFIDAVIT OF EXECUTION

OF WITHDRAWAL OF CAUTION.

(Rule 22.)

## LAND TITLES ACT.

I, G. H., of —, a solicitor of the Supreme Court of Judicature [*or as the case may be*], make oath and say:

1. I am well acquainted with A. B. named in the above withdrawal of caution, and the signature purporting to be his signature at the foot of the said document is in his handwriting. I believe the said A. B. to be the person who registered the caution referred to in the said document.

2. The said A. B. is of the age of twenty-one years or over, and is of sound mind, and signed the said document voluntarily at the — of — in the — of —.

3. I am a subscribing witness to the said document.

SWORN, etc.

# MECHANICS' LIENS.

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## THE MECHANICS' AND WAGE-EARNERS' LIEN ACT.

(R.S.O., c. 153.)

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### CLAIM OF LIEN.

#### WORK OR MATERIALS.

A.B. [*name of claimant*] of —, [as assignee of C.D., of —,] under The Mechanics' and Wage-Earners' Lien Act claims a lien upon the estate or interest of [*here state the name and residence of owner of land on which the lien is claimed*], and all persons claiming under him (*a*) subsequently to the [*date when lien attached*], in the undermentioned land in respect of the following work [*service, or, materials*], that is to say [*give short description of the nature of the work done or materials furnished for which lien is claimed*], which work [*or, service*] was [*or, is to be*] done [*or, materials were furnished*] for [*name and residence of person upon whose credit work was done or materials furnished*] on or before the — day of —, 19— [and since the — day of — 19—].

The amount claimed as due [*or, to become due*] is the sum of \$—, and \$— for this lien.

The following is the description of the land to be charged [*give concise description of the land sufficient for the purpose of registration; if separate buildings, designate the different lots, etc., and charge proper amount on each*].

[*When credit has been given add:*] The said work was done [*or, materials were furnished*] on credit, and the period of credit agreed to expired [*or, will expire*] on the — day of — 19—.

Dated at — this — day of — 19—.

[*Signature of claimant.*]

(a) *Makins v. Robinson*, 6 O.R. 1.

## AFFIDAVIT VERIFYING CLAIM.

(S. 17.)

COUNTY                    I, —, of the — of — in the county of  
     of —,                —, —, named in the above [or, annexed]  
 To Wit:                claim, do make oath that the said claim is true  
 [or, that the said claim, so far as relates to me, is true.]

[Or, We — and — named in the above [or, annexed]  
 claim do make oath, and each for himself says that the said  
 claim, so far as it relates to him, is true.]

That all of the said work [or, service] done [or, materials  
 furnished] in the said claim specified was so done [or, were so  
 furnished or supplied] by me for use in the erection [construc-  
 tion, or, repairing] of a building or erection upon the lands in  
 the said claim mentioned for and upon the credit of —.

That the land upon which the said work [or, service] was  
 done [or, materials were furnished, or, supplied] is, to the best of  
 my knowledge and belief, correctly described in the said claim.

[When the affidavit is made by an agent or assignee, a clause  
 must be added to the following effect: I have full knowledge of  
 the facts set forth in the above [or, annexed] claim.]

SWORN (b), etc.

[or, The said — and  
 — were severally  
 sworn, etc.]

## CLAIM OF LIEN

FOR WAGES, BY ONE CLAIMANT.

(S. 17.)

A.B., of the — of —, in the county of —, —, [as  
 assignee of C.D., of —, ] under The Mechanic's and Wage-  
 Earners' Lien Act, claims a lien upon the estate or interest of  
 [here state name and residence of owner of land upon which lien is  
 claimed], and all persons claiming under him subsequently to the  
 [date when lien attached] in the undermentioned land in respect  
 of — days' work performed thereon while in the employment  
 of [give name and residence of person upon whose credit the work was  
 done] on or before the — day of — 19—.

(b) Registrars and Deputy Registrars cannot administer this oath.

The amount claimed as due is the sum of \$——, and \$—— for this lien.

The following is the description of the land to be charged [*give concise description of the land sufficient for the purpose of registration; if separate buildings, designate the different lots, etc., and charge proper amount on each.*]

Dated at —— this —— day of —— 19—.

A.B.

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[For "Affidavit Verifying Claim," see p. 472.]

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### CLAIM OF LIEN

FOR WAGES, BY SEVERAL CLAIMANTS.

(S. 18.)

The following persons, under the Mechanics' and Wage-Earners' Lien Act, claim a lien upon the estate or interest of [*here state name and residence of owner of land upon which lien is claimed*], and all persons claiming under him subsequently to the [*state when lien attached*] in the under-mentioned land in respect of wages for labour performed thereon while in the employment of [*give names and residences of employers of the several persons claiming the lien*].

[A. B.], of ——, \$ —— for —— days' wages.

[C. D.], of ——, \$ —— for —— days' wages.

[E. F.], of ——, \$ —— for —— days' wages.

The following is the description of the land to be charged [*give concise description of land sufficient for the purpose of registration; if separate buildings, designate the different lots, etc., and charge proper amount on each*].

Dated at —— this —— day of —— 19—.

A. B.

C. D.

E. F.

---

[For "Affidavit Verifying Claim," see p. 472.]

## DISCHARGE OF LIEN.

(S. 27.)

I, —, [name of lienholder (c)] acknowledge to have received from [name of owner or other person making payment] \$ — in full discharge of my mechanics' lien as a [contractor or subcontractor, as the case may be] upon lot [give short description of land sufficient for purpose of registration].

Dated this — day of — 19—.

WITNESS: }

[Signature of lienholder.]

## AFFIDAVIT VERIFYING DISCHARGE OF LIEN.

COUNTY } IN THE MATTER of The Mechanics' and Wage-  
of —, } Earners' Lien Act.

I, —, of [state residence and occupation] make oath and say;

1. That I was personally present and did see [name of lienholder giving receipt] duly sign the above [or, annexed] written receipt.

2. That I well know the said [name of lienholder], and the said receipt was signed by him at —.

SWORN, etc.

## DEMAND OF TERMS OF CONTRACT.

(S. 29.)

To [name of owner].

TAKE NOTICE that I claim to be a lienholder under The Mechanics' and Wage-Earners' Lien Act upon [describe shortly the premises in question] under a contract made by me with [name of contractor], and I do hereby require you to furnish me with the terms of the contract or agreement existing between you and the said [contractor] in reference to [the building, or, the carpenter work of the building now being erected upon the said premises, or as may be] and the amount overdue and unpaid upon such

(c) This receipt may be made either by the claimant or his agent duly authorized in writing.

contract pursuant to section 29 of The Mechanics' Lien and Wage-Earners' Lien Act.

Dated at — the — day of — 19—.

[Signature of lienholder.]

### NOTICE OF LIEN

BY SUB-CONTRACTOR TO OWNER.

To [name of owner].

TAKE NOTICE that I have been employed by [name of contractor by whom person giving notice was employed] to [do work as a painter on, or, to supply materials for] the building erected [or, now being erected] on [give short description of premises] and that the said [name of contractor] is indebted to me for such work [service, or, materials] in the sum of \$—, which is unpaid, and I claim a charge therefor on all moneys due by you to the said [name of contractor].

Dated this — day of — 19—.

[Signature of sub-contractor.]

### NOTICE OF SALE OF CHATTELS (d).

(S. 51.)

#### AUCTION SALE.

WHEREAS [name of person indebted] is indebted to the undersigned in the sum of \$— for [work done and materials supplied in the alteration or improvement of (describe article)], and three months have elapsed since the said sum ought to have been paid, and default has been made in payment thereof, notice is hereby given that on — next, the — day of — 19—, [a date not less than one week after the date of this notice] at [place of sale, e. g., the auction rooms of — at No. —, — street, in the — of —] the said [describe chattel as above] will be sold by [name of auctioneer] by public auction.

[If the sale is to be subject to a reserve bid, or other special conditions, it should be so stated.]

Dated this — day of — 19—.

[Signature of lienholder.]

(d) To be published in a newspaper, and also left at owner's last residence.



# MINING.

## APPLICATION FOR MINING LANDS

UNDER "THE MINES ACT," ONTARIO (a).

THE Commissioner of Crown Lands, Toronto:

SIR; I hereby apply for a grant [or, lease] under the terms and provisions of The Mines Act, R.S.O., 1897, c. 36, and amendments thereto, of a mining location consisting of — acres more or less and described as follows: [*If in a surveyed township give name of township and number of concession and section or lot or part thereof. If unsurveyed territory, give the locality as described by the plans and field notes of the surveyor, or, if the land applied for has not been surveyed, such other description as will enable the Director of Surveys to indicate the locality upon the office map.*]

Dated at — the — day of — 19—.

[*Signature in full and occupation of applicant.*]

## AFFIDAVIT OF DISCOVERY

OF MINING LANDS (b).

[DISTRICT] of —, } I, —, of the — of — in the  
To Wit: } — of —, —, make oath and say:

1. That on the — day of — 19— I, —, discovered valuable ore or mineral on the location named in the above application, that is to say [*give particulars of discovery, kind of ore or metal, etc.*] [which discovery was made on behalf of —, the above named applicant].

2. That I have no knowledge and have never heard of any adverse claim to the said location by reason of prior discovery or otherwise.

SWORN, etc.

(a) R. S. O., c. 36.

(b) To be attached to above application.

## AFFIDAVIT IN SUPPORT OF APPLICATION

FOR MINING LANDS (c).

ONTARIO:                    I, —, of the township of — in the  
 [DISTRICT] of —,        ) district of —, and I, —, of the town-  
                                   ) ship of — in the district of —, do  
 To Wit:                    ) solemnly swear:

1. That on the — day of — I personally visited and carefully examined — lot number — in the — concession of the township of — and at that time there was no person residing on said lot and there were no improvements thereon [*or according as the fact is*].

2. That there was no visible trace nor indication of work having been done on the said lot by any person or persons for mining or other purposes [*as the fact is*].

3. That to the best of my knowledge and belief there is no claim to the said location by any person or persons adverse to that of —, the applicant, on the ground of priority of discovery of mineral thereon, or otherwise.

SWORN, etc.

## NOTICE OF LOCATION

FOR STAKING OUT CLAIMS IN UNSURVEYED TERRITORY.

UNDER "THE MINES ACT," ONTARIO (d).

To the Local Agent at —:

Sir: I, —, of —, in the — of —, holder of Prospector's License No. — do hereby present a Notice under the terms and provisions of "The Mines Act," R.S.O., 1897, and 62 (2) Victoria, chapter 10, and of the regulations for staking out locations in the unsurveyed territory of Ontario made thereunder for a location consisting of — acres more or less, according to the sketch or plan attached hereto, and which may be more particularly described as follows: [*Set forth the name (if any) of the claim, and its locality as indicated by some general description or statement; length of boundary lines if for any cause they are not*

(c) To accompany application on p. 476.

(d) R.S.O., c. 36.

*regular, and nature of such cause; situation of discovery post as indicated by distance and direction from first corner post; time (date and hour) when discovery of ore or mineral was made; when claim was marked or staked out and lines blazed; and date of this notice. See numbers 6 to 15 inclusive of Regulations approved by the Lieutenant-Governor in Council, May 27, 1899.*

Dated at — the — day of — 19—.

[Signature of licensee in full.]

### AFFIDAVIT OF DISCOVERY

OF LOCATION (e).

[DISTRICT] I, —, of the — of — in the — of  
of —, —, —, make oath and say:

To Wit: 1. That on the — day of — 19—, and at the hour of — o'clock in the [fore]noon I, — [or, — on my behalf] discovered valuable ore or mineral on the location named and described in the notice endorsed thereon and in the sketch or plan attached thereto, that is to say: [Give particulars of discovery, kind of ore or metal, etc.]

2. That I have no knowledge and have never heard of any adverse claim to the said location by reason of prior discovery, improvement, occupation or otherwise.

3. That the sketch or plan hereto attached is correct and shows the discovery posts, and corner posts [and the witness posts] and their distances from each other in feet, and that all the particulars set out in the said notice are true and correct.

4. The lands upon which the above location has been made have no value for pine timber and are not in the immediate vicinity of such lands.

SWORN, etc.

(e) To be attached to Notice of Location on p. 477.

## TRANSFER OF MINING LEASE

NO. — (f).

UNDER "THE MINES ACT," ONTARIO (a).

I, —, of the — of — in the — of —, —, being the lessee of the lands demised by a certain mining lease granted by [Her] Majesty the [Queen] to —, dated the — day of — 19—, and numbered in the register of Mining Leases in the Department of Crown Lands as number —, which lands may be more particularly known and described as follows, that is to say:—, in consideration of the sum of — dollars paid to me by — of —, the receipt of which is hereby acknowledged, and of —, do hereby transfer to the said — my right, title and interest in and to the land demised as aforesaid.

And I, the said —, do hereby accept such transfer of — the right, title and interest of the said — in and to the said demised lands subject to the provisions of The Mines Act, and the regulations made thereunder, and do hereby agree to be bound by all and singular the terms, covenants, provisions, restrictions and reservations in the said lease.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## ASSENT OF COMMISSIONER TO TRANSFER.

I hereby sanction and authorize the transfer of the specified interest of — to — in the above named lease.

Dated at Toronto this — day of — 19—.

\_\_\_\_\_  
Assistant Commissioner of Crown Lands.

## AFFIDAVIT OF EXECUTION

OF TRANSFER OF MINING LEASE.

PROVINCE of Ontario, } I, —, of the — of —, in the  
[County] of —, } — of —, —, make oath and  
To Wit: } say:

(f) Transfers must be signed by both parties and approved by the Commissioner or Assistant Commissioner, and are required to be made in triplicate, one copy to file, one for the Registrar or Local Master of Titles, and one for the assignee of the lease.

(g) R.S.O., c. 36.

1. I am well acquainted with —, named in the within document, and saw him sign the said document, and the signature purporting to be his signature at the foot of the said document is in his handwriting.

2. The said — is, as I verily believe, the lessee of the land within mentioned.

3. The said — is of the age of 21 years or over, of sound mind, and signed the said document voluntarily at —, in the — of —, and Province of Ontario.

4. I am a subscribing witness to the said document.

SWORN, etc.

### AFFIDAVIT IN PROOF OF PERFORMANCE OF WORKING CONDITIONS.

UNDER "THE MINES ACT," ONTARIO.

[DISTRICT] of —, } In the matter of Mining Location  
To Wit: } No. — [describe as in patent or lease.]  
which was — patented [or, leased] — to — on the —  
day of — 19—.

I, —, of the — of — in the — of —, —, make  
oath and say as follows:

1. That I am the owner [or, lessee, or, one of the owners, or, lessees] of the mining location above named; [or, I am the president, or, secretary, or, manager, or, agent, as the case may be, of the — company, which company is the owner, or, lessee] of the mining location above named, and as such am cognizant of all matters relating thereto.

2. That there has been expended previous to the — day of — 19—, for said location in actual mining operations thereon, exclusive of all houses, roads and other like improvements, the sum of — dollars.

3. That said mining operations consisted of the following work performed at the time or times following, that is to say: [Here detail the work performed previous to the date mentioned, with the date or dates when performed. In the case of a patent or lease issued since April 13th, 1897, show the work and expenditure each year after date of patent or lease.]

SWORN, etc.

# CERTIFICATE OF PERFORMANCE OF CONDITIONS

OF "THE MINES ACT," ONTARIO (h).

## Land Titles Act.

The undersigned hereby certifies that satisfactory evidence has been filed in the Department of Crown Lands of Ontario shewing the performance of the provisoes and conditions of The Mines Act subject to which the patent was issued for the following land, that is to say:—.

And the undersigned hereby authorizes the Local Master of Titles in whose office the said lands are registered to cancel the qualification to which, in consequence of the patent being issued subject to the said conditions the said lands are in such registration expressed to be subject.

WITNESS my hand and seal of the Department of Crown Lands this — day of — 19—.

WITNESS. }

\_\_\_\_\_,  
Commissioner of Crown Lands.

To be filed in the office of the Local Master of Titles in the District of —.

## AFFIDAVIT OF EXECUTION

OF CERTIFICATE OF PERFORMANCE OF CONDITIONS.

## Land Titles Act.

I, —, of the city of Toronto, in the county of York, a clerk in the Department of Crown Lands, Ontario, make oath and say:

1. That I was present and did witness —, Commissioner of Crown Lands for the Province of Ontario, sign the within certificate at Toronto, in the said Province of Ontario.

2. That I am a subscribing witness to the said certificate.

SWORN, etc.

(h) R.S.O., c. 36.

## OPTION

## ON MINING LAND.

AGREEMENT made the — day of — 19—, between — of —, hereinafter called the vendor, of the first part, and — of —, hereinafter called the purchaser, of the second part.

WITNESSETH that in consideration of the covenants of the purchaser herein contained and of the sum of — dollars now paid by the purchaser to the vendor (the receipt whereof is hereby acknowledged) the vendor hereby gives to the purchaser or his nominee an option [*or, the sole and exclusive option*] to purchase [free from encumbrances] the mining property situate, etc., having an area of about — acres [together with the exclusive right and privilege of utilizing any water or water power or any river or stream flowing through the property], upon the terms hereinafter set forth.

The purchase money for the property shall be the sum of — dollars [together with the interest in the property (*or, the proportion of stock in a certain company to be formed as*) hereinafter set forth], and the said sum of — dollars shall be paid in cash on the acceptance of this option [*or, the sum of — dollars in cash and — dollars on the — day of —, or as the case may be*].

The interest above referred to shall be an interest of — per cent in the property, provided however that if the purchaser or his nominee shall form a joint stock company for the purpose of operating the property that the vendor shall accept in lieu of such — per cent interest in the property [one fifth] of the stock or shares in any company which may be formed for the purpose of taking over and operating the property, and such stock or shares shall be fully paid up and non-assessable.

It is however agreed as a condition of this option that the purchaser or his nominee shall cause at least — dollars of actual development work to be done on the property before the — day of — 19—, and such development work shall be as follows:—, and he shall commence the said development work before the — day of — next, and in the event of the purchaser or his nominee failing so to do then this agree-

ment and all rights thereunder shall cease and be null and void and any moneys paid hereunder shall be retained by the vendor as liquidated damages and not as a penalty.

If the purchaser or his nominee decides to exercise this option he shall, in pursuance of the preceding paragraph and to ensure the carrying out thereof and as part of the consideration for these presents and in addition to the said sum of — dollars, pay to the vendor the sum of — dollars by depositing the said sum at the — bank at — on or before the — day of — next, or within [thirty] days after the acceptance of this option, to the joint credit of the vendor and the said bank, and in the event of the purchaser or his nominee failing to perform — dollars worth of development work on the property in the time above specified the said sum of — dollars so deposited shall become the absolute property of the vendor, but in the event of the purchaser or his nominee fully complying with the conditions above mentioned the said sum of — dollars so deposited shall be returned to him.

Provided that if the purchaser or his nominee fulfil all the agreements and particulars of this option as herein set forth on or before the — day of — 19—, such performance shall entitle the purchaser or his nominee to an extension of time hereunder, not exceeding — days, for the purpose of completing the organization of any company which is being formed for the purpose of operating the property.

Provided that after payment of the said sum of — dollars on this option, the purchaser or his nominee may, during the period for which this option is given, enter upon the property and examine it for the purpose of satisfying himself as to the value of the property and its minerals, and may remove from the property such reasonable quantity of rock, etc., as may be reasonable and proper for the purpose of satisfying himself as aforesaid, and the purchaser or his nominee shall be at liberty to mine and ship ore to an amount not exceeding — tons, but in the event of his non-compliance with the terms and conditions of this agreement and not making the payments herein provided for the purchaser or his nominee shall pay to the vendor the net value of the ore so shipped, after deducting therefrom actual treating and shipping expenses.



Provided that the vendor shall have access to the property and the workings thereof during the currency of this agreement.

Provided that having made any of the payments due hereunder the purchaser may, by notice to the vendor to be given by a letter delivered to the vendor or mailed postage prepaid and registered addressed to the vendor at — post office, rescind this agreement, and such payment or payments shall thereupon be retained by the vendor as liquidated damages for breach of this agreement.

[Provided that neither the signing of this agreement nor the payment of any instalment herein provided for shall bind the purchaser to pay the other instalments, but he shall always be at liberty to cancel and rescind the contract completed by signature or payments by forfeiting the payments already made in respect thereof, and upon such cancellation he shall not be in any way liable or responsible for any further payments, nor for any damages for failure to carry out the said contract.]

Provided that if the purchaser or his nominee fail or neglect to comply with the stipulations or provisions herein contained, or any of them, the vendor may, at his option, rescind this agreement, on — days' notice to be given by a letter delivered to the purchaser or mailed postage prepaid and registered addressed to the purchaser at — post office, and upon the expiry of the time limited by the said notice the vendor may forthwith repossess himself of the property and of all work done [and plant placed] thereon without making any compensation therefor to the purchaser or his nominee, or the vendor may forthwith sell the property either by public auction or private sale, and any difference in price which may happen on such resale shall be forthwith paid by the purchaser and shall be recoverable as liquidated damages.

*[If a substantial sum be paid for the option or to bind the bargain add, if desired, the following: The sum of — dollars paid by the purchaser to the vendor as part consideration for the giving of this option, shall, upon the completion of this agreement, be payment of the allowed as part purchase money.*

The option hereby given shall be open for acceptance up to but not after the — day of — 19—, and may be accepted

by a letter delivered to the vendor or mailed postage prepaid and registered addressed to the vendor at — post office.

All adjustments to be made to the date of the transfer of possession, and the purchaser or his nominee shall have [fourteen] days after acceptance of this offer to satisfy himself as to the title.

[Here insert such stipulations as to title as may be required. For special clauses see forms on pp. 52 and 66.]

Time shall be of the essence of this agreement.

This agreement shall enure to the benefit of and be binding on the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## LEASE OF MINING RIGHTS

TO MINE ONE MINERAL (i).

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of the — of — in the county of —, —, herein-after called the lessor, of the first part, and — of the — of — in the county of —, —, hereinafter called the lessee, of the second part.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the lessee to be paid, observed and performed, the lessor hereby grants, demises and leases unto the lessee all the [describe the mineral] which is now or hereafter may be found under, throughout or upon all that certain parcel of land, situate, etc., with full and exclusive liberty, power and authority for the lessee, his agents, servants and workmen, to search for, dig, work, mine, procure and carry away all of the said mineral wherever it may be found within the limits of the said land, and to dig, procure, open and work any wells, shafts or mines within the limits of the said land, and upon the said land to

(i) See special clauses in form of Lease on p. 408, and of Option on p. 482.

make such erections and buildings as shall from time to time be necessary and proper for the more effectual working of the said mines, and for the procuring and making fit for sale the mineral to be mined within the limits aforesaid, together with the use of any water and watercourses arising in or running through the limits aforesaid.

[Provided, however, that the lessee shall not, in the exercise of such liberty and power, in any way have the right to conflict with, interfere with, hinder or make difficult in any way the mining operations of any other minerals than the mineral — aforesaid which the lessor may at any time wish to carry on; and the lessee covenants with the lessor that he will not attempt to mine for the said mineral on the said land or to make erections or buildings thereon in any place which may be so near to any spot in which other minerals may exist as to in any way interfere (in the judgment of the lessor) with the mining, extraction, use or preparation for sale of such other mineral than — by the lessor.]

Provided that the lessee, his servants, agents and workmen, shall have a right of way on, over and upon the said land, and with or without carts, sleighs or other vehicles and horses or other animals, for the purpose of digging for, working and carrying away the said mineral.

To hold and enjoy all the powers and privileges hereby granted, subject to the provisions aforesaid, and the said lands hereby demised unto the lessee henceforth for a term of — years from the — day of — 19—, yielding and paying therefor to the lessor the yearly sum of — dollars.

The lessee covenants with the lessor to pay rent. Proviso for re-entry by the lessor on non-payment of rent or non-performance of covenants. The lessor covenants with the lessee for quiet enjoyment.

And it is hereby declared and agreed that this indenture and everything herein contained shall enure to the benefit of and be binding on the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## LEASE OF OIL LAND.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of —, hereinafter called the lessor, of the one part, and — of —, hereinafter called the lessee, of the other part.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained, and by the lessee to be paid, observed and performed, the lessor demises and leases unto the lessee all that certain parcel of land situate, etc.

To have and to hold the said demised premises, with the appurtenances, unto the lessee for the term of — years from the date hereof, for the purpose of sinking an oil well or wells [or, at least — oil wells] thereupon, and pumping and working the same as hereinafter provided.

Yielding and paying therefor unto the lessor, free from all expenses whatsoever, the one [sixth] part or share of all the petroleum oil gathered, obtained and procured from the said premises during the continuance of these presents, as a dis-trainable rental therefor, in the manner and at the times hereinafter mentioned.

And the lessee covenants with the lessor as follows:

That he will sink or cause to be sunk an artesian well or wells to the depth of — feet (unless oil is obtained in paying quantities at a lesser depth), and of a sufficient size to admit of the insertion of a sufficient pump and tubing to the bottom thereof. And will commence the operation of sinking the said well or wells within — days from the date hereof, and will diligently prosecute the said work and complete the said well or wells within — days from the date hereof in a thorough, good, skilful and workmanlike manner.

And that he will properly and efficiently case every well on the said premises with good artesian casing, and will at all times adjust the tubing and seed-bag in such wells, or sufficiently plug and keep every such well protected, so as to effectually shut off all surface and fresh water. And will properly and efficiently shut and plug off the large salt water vein if tapped in sinking the said well, and will on the completion

of the said well thoroughly, skilfully and diligently test the same for a sufficient period of time to ascertain as accurately as possible the yield and capacity thereof. And if the said well prove to yield oil in paying quantities, that he will (without any expense to the lessor) pump and work the same faithfully and uninterruptedly with due vigour and skill, with good and sufficient machinery and appliances so long as the said well continues to yield oil in remunerative quantities according to the true intent and meaning of these presents.

And that he will keep books on or near the said premises showing correctly the quantity of oil produced therefrom, and of all oil taken away or removed therefrom, and will from time to time, on demand, produce the said books and permit the lessor or his attorney or agent to inspect them and take extracts therefrom or copies thereof. And will permit and suffer the lessor or his attorney or agent at all times to enter upon the said premises for the purpose of so inspecting, copying or extracting from the said books, and as well also to inspect the operation of pumping and working the said wells.

And that he will deliver to the lessor on the said premises in barrels or tanks, to be provided by the lessor, the full one [sixth] part or share of the petroleum oil gathered, obtained or procured from the said premises as often as once in every — days, or oftener if the lessor shall require it. And will not sell or remove any oil from off the said premises until the said proportionate part or share thereof belonging to the lessor shall have been delivered as aforesaid, unless the lessor shall fail to be present or unrepresented, or to provide tankage or barrels as aforesaid to receive the said rent or royalty, for a period of — days, in which case the lessee may divide any oil that has accumulated in the same manner as if both parties were present, and remove away his part or share thereof.

And that he will at his own proper costs, charges and expenses provide all labour, machinery, buildings, engines, boilers, tools, pumps and other appliances of every description requisite for the purpose of sinking, testing and pumping the said wells as aforesaid. And will, at the expiration or sooner determination of the term hereby created, deliver up quiet and peaceable possession of the said premises to the lessor.

And it is further agreed between the said parties that at the expiration of the term hereby granted, or upon failure to obtain oil, or to obtain it in remunerative quantities from the said premises after having put down the said well and tested the same in the manner aforesaid; or if the yield of oil shall at any time cease, or become unremunerative, then the lessee, upon giving one week's notice in writing to the lessor of his intention so to do, or by leaving such notice on the premises, conspicuously posted up, may remove all machinery, buildings, engines, boilers, tools, pumps and other articles of every description whatsoever, except the conductor, (and reserving the privilege to the lessor of purchasing the casing, as herein-after mentioned,) from off the said premises, and abandon the same; (and the removal of the engine and boiler, or any of the property of the lessee used at the said wells and requisite for the pumping and working thereof, other than for repairs, removal or substitution shall be considered an abandonment thereof) and in case of such abandonment, or in case the lessee shall stop or discontinue the ordinary operations for the production of oil from the said premises for a period of — [days] consecutively during the continuance of these presents, then, and in either of such cases, the term hereby created shall cease and be void, and the lessor may re-enter and take possession of the said premises, by force or otherwise and without any notice or demand of possession, as if this lease had never been made. And in case of any abandonment as aforesaid every well sunk on the said premises shall be left in as good condition in every respect as when last operated upon: Provided, nevertheless, that if the said casing shall not be purchased under the privilege hereinafter mentioned the said premises shall be left in as good condition in every respect as when last operated upon: Provided, nevertheless, that if the said casing shall not be purchased under the privilege hereinafter mentioned, the lessee may draw the said casing out of the wells, doing as little injury to the said wells as possible.

And it is further agreed that in the event of the abandonment of the said wells the lessor shall have the privilege of purchasing the casing therein at a fair valuation, the election to purchase it to be made within one week from the giving of

the said written notice of the lessee's intention to remove the machinery and other property as hereinbefore provided.

And it is further agreed that the lessor may erect, construct and place any tank or tanks on the said premises, capable of holding in the aggregate [one thousand] barrels of oil, to receive or store from time to time his share of the oil as aforesaid, obtained from the said premises, but such tank or tanks shall not be placed in such a position as to interfere with the pumping or working of the wells.

Proviso for re-entry by the lessor on non-payment of rent or non-performance of covenants. And the lessor covenants with the lessee for quiet enjoyment.

And that the lessee may during the existence of this lease put down any other well or wells on the said premises, subject to the same rent, covenants and agreements as are herein contained.

The lessor shall pay all taxes and assessments incident to the land, and the lessee shall pay all taxes on building, plant, machinery and oil incident to the working of the said wells.

And it is further understood and agreed that the lessee shall occupy the said lands for the sole purpose of sinking oil wells thereon and pumping and working them as aforesaid, and for no other purpose whatsoever, and that the lessor may occupy and cultivate the said lands, save and except such parts thereof as the lessee may reasonably require for the purposes aforesaid.

Provided that the lessee shall do or cause no unnecessary damage to the crops, timber, fences or roads of the lessor, and will repair or make compensation for all damage so done.

The lessee shall have the option, at any time within three years from the date hereof, of purchasing the fee simple of the lands hereby demised, together with all buildings, plant and machinery thereon, at and for the price of — dollars an acre. And the lessor covenants that he will at any time within [three] years from the date hereof upon tender of the said sum of — dollars an acre, convey to the lessee in fee simple the land hereby demised free from dower and other encumbrances.

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the

benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### LEASE OF OIL AND GAS LAND.

*(Short form (j).)*

THIS LEASE made the — day of — 19—, between — of the — of — in the county of — and province of —, hereinafter called the lessor, of the first part, and — of the — of — in the county of —, —, hereinafter called the lessee, of the second part.

WITNESSETH that the lessor doth hereby demise and lease unto the lessee, his heirs, executors, administrators and assigns, for the sole and only purpose of mining and operating for water, oil and gas, and of laying pipe lines, and of building tanks, stations and structures thereon necessary and convenient to take care of the said products, all that certain parcel of land situate in the county of — and province of —, bounded substantially as follows: —, containing — acres, more or less, for the term of [twenty-one] years from the date hereof, at a rental of the [one sixth part] of all oil produced and saved on the said lands, to be delivered free of cost to the lessor in tanks situated on the said lands [or, pipe lines to which the lessee may connect his wells.]

If gas only is found on the said lands, the lessee shall have the right to use the same thereon, but he shall pay to the lessor — dollars each year, in advance, for the product of each well while the same is being used off the said lands, which he shall have the right to take, and the lessor to have gas free of cost to heat — stoves in dwelling houses on the said lands during the same time.

If the lessor shall request it the lessee shall bury all oil and gas lines below plough depth, and the lessee shall pay all damages done to growing crops by reason of burying and removing the said pipe lines.

(j) This form is largely used in the United States oil fields, and is now also much used in Canada.



No well shall be drilled nearer than —— feet to any house, barn or orchard on the said lands.

The lessee shall commence one well within [two] months from this date, and if such well shall not be commenced by that time the penalty shall be that this lease shall be null and void unless the lessee pays to the lessor —— dollars for each [month] thereafter that such commencement is delayed.

The lessee may use sufficient gas and water for all his operations, and may remove all his property from off the said lands at any time, including the right to draw and remove casing.

The lessor reserves the right to work as a farm such portion thereof as may not be occupied by the lessee for his oil operations.

*[If required, insert such special provisions as:*

It is agreed that the lessee shall not allow any paying wells to stand idle and not be pumped longer than —— days at any one time, or this lease shall become null and void.

It is further agreed that if oil is found in paying quantities the second well shall be completed within —— months of the completion of the first.]

It is further agreed that the lessee may surrender this lease at any time, upon which all payments and liabilities to accrue under and by virtue of its terms shall cease and determine, and this lease become absolutely null and void. Subject however to the right of the lessee to remove all his property from the said lands, including casing as aforesaid.

The lessor covenants with the lessee for quiet enjoyment of the said lands.

The provisions of this lease shall extend to the heirs, executors, administrators and assigns of the respective parties.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## LEASE OF OIL, GAS AND SALT LAND.

THIS INDENTURE made this — day of — 19—, in pursuance of the Act respecting Short Forms of Leases, between — of the township of — in the county of —, —, hereinafter called the lessor, of the first part, and — of the — of — in the county of —, —, hereinafter called the lessee, of the second part.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained by the lessee to be paid, observed and performed, the lessor doth demise and lease unto the lessee all that certain parcel of land situate, etc.

To have and to hold unto the lessee for and during the term of [ninety-nine] years from the date hereof, for the purpose of sinking oil, gas and salt wells thereon, and pumping and working them as hereinafter provided.

If the lessee shall fail to bore at least one well on the said lands within [six] months from the date hereof, then this lease, and the term hereby created, shall become null and void, and the lessee will at his own expense release the said lands [or, surrender this lease].

If the lessee shall put down a well [or, wells] during the said [six] months, he shall have a further period of [six] months thereafter to test the same, and should oil be found in any of the said wells he shall deliver to the lessor monthly, in tanks to be provided by him for that purpose, a royalty of [one-sixth] of all oil so produced, as a distrainable rental.

At the expiration of one year from the date hereof, unless the lessee shall in the meantime release the said lands, the lessee shall pay to the lessor the sum of [fifty cents] per acre, per annum, by way of rental, in addition to [one-sixth] of all oil produced as aforesaid; which said rental shall be paid at the end of the first year, and annually thereafter.

The lessee may take for his own use all gas found in the well or wells on the said lands, and use such gas on the said lands for the purpose of drilling or pumping the said wells; and the lessee may lay and operate pipe lines to convey oil, gas, water or brine, and shall have a right of way over and upon the

said lands from the public highway to the place of boring on the said lands, and the lessee may sink water wells and place buildings, plant, tanks and machinery on the said lands as may be necessary for the said operations.

Reserving to the lessor the full use and enjoyment of the said lands to erect buildings and cultivate and farm the same as heretofore, excepting any such parts as may be necessary for the said operations.

The lessee may convey off the said lands the gas from two wells free of any charge, and further may convey off the said lands the gas from all or any of the said wells, paying therefor to the lessor the sum of — dollars per annum in advance for each such well from which gas is conveyed off the said lands in excess of two wells as aforesaid.

The lessee may at any time within — [months] from the date hereof, purchase the fee simple in the said lands for the sum of — dollars per acre.

The lessee may remove his buildings, plant and machinery at any time, and may terminate this lease at the expiration of any year by giving notice of his intention so to do and upon releasing the said lands [or, surrendering this lease].

The lessee agrees to pay all damages done to growing crops while operating on the said lands, and to pay all taxes rated on any property or effects he may place thereon.

Proviso for re-entry by the lessor on non-payment of rent or non-performance of covenants.

The lessor covenants with the lessee that he has good right and full power to grant, demise and lease the said lands, rights and privileges unto the lessee in manner aforesaid, notwithstanding any act of the lessor or any other person whomsoever.

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

# MORTGAGES.

## MORTGAGE OF LAND.

(Statutory form.)

THIS INDENTURE made the — day of — one thousand nine hundred and —, in pursuance of The Act respecting Short Forms of Mortgages, between — of the — of —, in the county of —, —, of the first part; and — of the — of —, in the county of —, —, of the second part [and — wife of the said mortgagor, of the third part.]

[Here insert recitals, if any.]

WITNESSETH, that in consideration of — of lawful money of Canada, now paid by the said mortgagee [*or, mortgagees*] to the said mortgagor [*or, mortgagors*], the receipt whereof is hereby acknowledged, the said mortgagor [*or, mortgagors*] doth [*or, do*] grant and mortgage unto the said mortgagee [*or, mortgagees*], his [*her, or, their*] heirs, executors, administrators and assigns (*a*) for ever, all [that certain parcel of land, situate, etc].

[And the said —, wife (*b*) of the said mortgagor, hereby bars her dower (*c*) in the said lands.]

Provided this mortgage to be void on payment of [*amount of principal money*] of lawful money of Canada, with interest at — per cent as follows: [*here insert terms of payment of principal and interest*], and taxes and performance of statute labour.

(*a*) The word "assigns," as referable to the mortgagee, should never be omitted, for in its absence it has been said that an assignee of the mortgage could not exercise the power of sale (*Davidson's Conveyancer*, 3 Ed., Vol. 2, p. 621; *Bradford v. Belfield*, 2 Sim. 264), and it may be doubtful whether a devisee could (*Cooke v. Crawford*, 13 Sim. 91; *Wilson v. Bennett*, 5 DeG. & Sm. 475; *Stevens v. Austen*, 7 Jur. N.S. 873; *Macdonald v. Walker*, 14 Beav. 556; *Ridout v. Howland*, 10 Gr. 547.)

(*b*) A married woman may bar her dower although under 21 years of age (R.S.O., c. 165, s. 5).

(*c*) See Appendix C, on Dower.

The said mortgagor covenants with the said mortgagee that the mortgagor will pay the mortgage money and interest, and observe the above proviso.

That the mortgagor has a good title in fee simple to the said lands, and that he has the right to convey the said lands to the said mortgagee.

And that on default the mortgagee shall have quiet possession of the said lands, free from all incumbrances.

And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

And that the said mortgagor has done no act to incumber the said lands.

And that the said mortgagor will insure the buildings on the said lands to the amount of not less than — currency.

And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.

Provided that the said mortgagee, on default of payment for — months, may on — notice enter on and lease or sell the said lands (*d*).

Provided that the mortgagee may distrain for arrears of interest.

Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

Provided that until default of payment the mortgagor shall have quiet possession of the said lands.

IN WITNESS whereof the said parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED }  
in the presence of }

[*For Affidavit of Execution, see p. 9.*]

(*d*) See note (*k*) on p. 504.

## MORTGAGE OF LAND

## WITH SPECIAL CLAUSES.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Mortgages, between — of the — of — in the county of —, —, hereinafter called the mortgagor, of the first part, and — of the — of — in the county of —, —, hereinafter called the mortgagee, of the second part, [and —, wife of the mortgagor, of the third part].

[Or the following may be used as an alternative to the clause on p. 509 making the agreement binding on the heirs, etc., between — of the — of — in the county of —, —, (who, and whose heirs, executors, administrators and assigns are hereinafter included in the expression "the mortgagor,") of the first part, and — of the — of — in the county of —, —, (who, and whose heirs, executors, administrators and assigns, are hereinafter included in the expression "the mortgagee,") of the second part.]

WHEREAS the mortgagor at the time of the execution hereof is seised in fee simple of the lands hereinafter described, and has applied to the mortgagee for a loan upon mortgage thereof.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the mortgagee to the mortgagor (the receipt whereof is hereby acknowledged), the mortgagor doth grant and mortgage unto the mortgagee for ever all that certain parcel of land, situate, etc.

*Buildings subsequently erected.*

Together with all buildings now or hereafter erected or placed on the said land, and which the mortgagor hereby declares to form part of the freehold of the said land and of this security whether annexed to the said freehold or not.

*Machinery.*

If it is desired to mortgage plant and machinery, add, together with all the plant, engines, boilers, machinery, shafting, belting, pulleys, implements, utensils and effects in, about or belonging to the said works and lands and the yards thereof, used or employed in the said trade or business of manufacturing and

whether the same be of the classes enumerated or not, and whether the same are now upon or are hereafter, during the continuance of this security, brought upon the said lands, it being hereby declared by the mortgagor that the same, whether actually attached or not, form part of the realty hereby mortgaged and are not chattel property (*e*).

*Bar of dower.*

And the said —, wife of the said mortgagor hereby bars her dower in the said lands.

*Payment of principal and interest.*

Provided this mortgage to be void on payment of — dollars with interest at — per cent per annum as follows: the said principal sum of — dollars on the — day of — 19— (*f*) and interest [half yearly] as well after as before maturity, and as well after as before default, on the — days of — and — in each year until the said principal sum be fully paid, whether the same be paid on or after the expiration of the time hereinbefore appointed for payment thereof, the first payment of interest to be made on the — day of — 19—.

*Taxes, statute labour, etc.*

And taxes and performance of statute labour, and observance and performance of all covenants, provisoes and conditions herein contained.

*Compound interest.*

And in case default shall at any time be made in payment of any sum due for interest as aforesaid, compound interest shall be paid at the rate above mentioned on the sum so in arrear; and in case the interest and compound interest are not paid in — months from the time of default, a rest shall be made and compound interest at the said rate shall be payable

(*e*) As to what are or may become fixtures, see Barron and O'Brien on Chattel Mortgages, pp. 21-25 and p. 243, and cases there cited, and see also *Bacon v. Rice Lewis*, 33 C.L.J. 680.

(*f*) In Ontario, in a mortgage made after July 1, 1903, when the principal or interest is not payable till more than five years after the date of the mortgage then, at the expiration of such five years, the person liable to pay, or entitled to redeem the mortgage may tender or pay the principal and interest to the time of such tender, together with 3 months further interest in lieu of notice, and no further interest shall thereafter be payable (Ont., 1903, c. 11, s. 3).

on the whole amount then due, and so on from time to time; and all such interest and compound interest shall be a charge on the said lands in the same manner as all other moneys hereby secured.

*Interest in arrear to become principal.*

And on default in payment of any instalment of interest such interest shall at once become principal and bear interest at the rate aforesaid, which interest shall be payable from day to day, and shall itself bear interest at the rate aforesaid if not paid prior to the next gale day, it being agreed that all interest, as well that upon principal as upon interest, is to be compounded at each day mentioned for payment of interest.

*Interest on moneys in arrear.*

And if any sum hereby secured is not paid at the time herein provided for payment, interest thereon shall be payable at [the above rate] from day to day until such sum is fully paid.

*Judgment on covenants not to be a merger.*

And it is agreed that the taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the mortgagee's right to interest at the rate and times herein provided.

*Payments to be made in gold.*

Payment of the moneys hereby secured shall, if required, be made in gold coin of the present standard value legally current in Canada.

*Reduced rate of interest for punctual payment.*

The mortgagee covenants with the mortgagor that upon payment of the said interest on the days on which the payments thereof severally become due, or within — days thereafter, respectively, the mortgagee will accept the same at the rate of [five] per cent instead of [six] per cent as hereinbefore provided.

*Bonus in lieu of notice (g).*

And the mortgagor covenants with the mortgagee that in

(g) In Ontario this clause is no longer of value. Under the Ontario statute, 1903, c. 11, s. 1, when default has been made in the payment of any principal, the mortgagor or party entitled to make payment may,



the event of non-payment of any principal money at the time or times herein provided [or within — thereafter, with interest for said —], the mortgagor shall not be entitled to require the mortgagee to accept payment of such principal money without paying a bonus equal to three months' interest in advance on such principal money, such bonus to be in lieu of notice of intention to pay, the right to give which notice is hereby waived.

*Power to pay off without notice.*

And the mortgagee agrees that the mortgagor shall be at liberty during the said term, after having paid — years' interest thereon, to repay all or any part of the said principal sum without giving any notice thereof upon payment of the accrued interest at the date of such payment and — months interest in advance.

*Notice or bonus after default (g).*

And it is also agreed that if the said principal or any part thereof be not paid at maturity the mortgagor shall not be at liberty to pay the same except after three months' notice in writing to the mortgagee or upon the payment of three months' interest in lieu of such notice.

*Acceleration on default.*

Provided that in default of the payment of any portion of the money hereby secured the whole principal money and interest hereby secured shall [at the option of the mortgagee,] immediately become payable.

*Statutory covenants (h).*

The said mortgagor covenants with the said mortgagee that the mortgagor will pay the mortgage money and interest, and observe the above provisoes. That the mortgagor has a good title in fee simple to the said lands, and that he has the right to convey the said lands to the said mortgagee. And that on default the mortgagee shall have quiet possession of the said lands, free from all incumbrances. And that the said mortgagor notwithstanding any agreement to the contrary, at any time pay the principal on paying 3 months' interest thereon or on giving 3 months' notice and paying interest to the date of payment. See also note (f) on p. 498.

(h) R.S.O., c. 126.

gagor will execute such further assurances of the said lands as may be requisite. And that the said mortgagor has done no act to incumber the said lands.

*Insurance on buildings.*

And that the said mortgagor will insure the buildings on the said lands to the amount of not less than — dollars currency [and the foregoing covenant to insure shall apply to machinery as well as to buildings, as required by the mortgagee].

Provided that if and whenever such sum be greater than the insurable value of the buildings such insurance shall not be required to any greater extent than such insurable value; and if and whenever such sum shall be less than the insurable value the mortgagee may require such insurance to the full insurable value. And (without prejudice to the foregoing statutory clause) it is further agreed that the mortgagee may require any insurance of the said buildings to be cancelled and a new insurance to be effected in an office to be named by him, and provided that every policy of insurance shall be renewed, and evidence of the renewal produced to the mortgagee, three days at least before the then existing insurance expires. Provided that the mortgagee may also, of his own accord, effect or maintain any insurance herein provided for, and any amount paid by him therefor shall forthwith be payable to him with interest at the rate aforesaid by the mortgagor, and shall be a charge upon the lands next after the said principal money and interest.

Provided that if there shall be any loss by fire either before or after default shall have been made in payment of the moneys hereby secured, or in the doing or keeping or non-observance of any of the covenants or agreements herein contained, the mortgagee may, at his option, apply the insurance moneys either towards rebuilding or repairing the property destroyed, or in or towards payment of the moneys hereby secured, or partly the one and partly the other.

*Insurance on crops.*

Provided that the mortgagee may insure the crops now or hereafter on the said lands for the amount of their full insurable value against loss or damage by hail.

*Statutory release of claims.*

And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said provisoes.

*Mortgagor to keep premises in repair.*

The mortgagor covenants with the mortgagee that he will keep the said lands and the buildings, fixtures and improvements thereon, or hereafter brought or erected thereon, in good condition and repair, according to the nature and description thereof respectively, and that the mortgagee may, whenever he deems it necessary, himself or by his agent, enter upon and inspect the said lands, and that if the mortgagor or those claiming under him neglect to keep the said lands, buildings, fixtures or improvements in good condition and repair, or commit any act of waste on the said lands, or make default as to any of the covenants or provisoes herein contained, the principal hereby secured shall, at the option of the mortgagee, forthwith become due and payable, and, in default of payment thereof with interest as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given may be exercised forthwith, and the mortgagee may make such repairs as he deems necessary, and the cost thereof shall be a charge upon the said lands prior to all claims thereon subsequent to these presents.

*Mortgagor to remain upon the land.*

And that the mortgagor will remain in actual personal possession of the said land during the existence of this mortgage,

*Machinery not to be removed.*

The mortgagor covenants with the mortgagee that none of the machinery now upon or hereafter to be placed upon the said lands will be removed during the currency of this mortgage, and in case of a breach of this covenant the above powers of sale shall be exerciseable as in the case of default of payment for [one] month.

*General management of property and costs of proceedings.*

The mortgagor covenants with the mortgagee that the mortgagee may, at any such times as he deems necessary, make such arrangements for the repairing, finishing, adding to and

putting in order any buildings or improvements on the said lands and for inspecting, taking care of, leasing, collecting the rents and managing generally the mortgaged property as the mortgagee may deem expedient, and all reasonable costs, charges and expenses (as between solicitor and client) incurred thereby, including expenses of any proceedings taken to realize or protect this security against liens or otherwise or to perfect the title to the said land, and the costs of any abortive sale or sales and of all legal proceedings taken for the purpose of or resulting in foreclosure including the costs whether before or after foreclosure of legal proceedings to obtain a personal order for payment against the mortgagor, shall be a charge upon the said land and shall bear interest at the rate herein named.

*Crop agreements (i).*

The mortgagor covenants with the mortgagee that he will, during each —, break — acres of [virgin prairie] soil on the land hereby mortgaged until — acres in all are broken and cultivated, and that he will sow and reap a crop thereon in each year thereafter during the currency of this mortgage, and that all land already broken, and to be broken, to the extent of at least all broken acres shall be sowed and cropped each year, and that he will, in the fall of each year plow in a good farmer-like manner all broken acres of the land hereby mortgaged, and so on from year to year during the currency of this mortgage. Provided that the mortgagor may summer fallow in a good farmer-like manner one-third of all broken acres of such cultivated land in any year.

*Power of sale.*

Provided that the mortgagee, on default of payment for [one] month (j) may on [ten days] notice (k) enter on (l) and lease or sell the said lands. And it is hereby agreed that such

(i) This clause is specially drawn for use in Manitoba, Alberta, Saskatchewan and the North-West Territories, and should usually be inserted in mortgages of farm land therein.

(j) In *Re Green and Arkin*, 14 O.R. 697, the power of sale clause read: "Provided that the said mortgagee on default of payment for one month may on giving notice in writing enter on and lease or sell the said lands." It was held that the substitution of "one month" for "— months" was not a material variation in the form, and that the assignee could make a good title. In *Barry v. Anderson*, 18 A.R. 247, the power of sale clause read: "Provided that the said mortgagees on default of

notice may be effectually given either in the manner aforesaid or by leaving the same with a grown-up person on the said lands if occupied, or by placing it thereon if unoccupied, or, at the option of the mortgagee, by publishing the same once in some newspaper published in the county of —, and shall be sufficient though not addressed to any person or persons by name or designation, and notwithstanding any person or persons to be affected thereby may be unborn, unascertained or under disability.

*Sale without notice after default.*

Provided that in case default be made in payment of either principal or interest for [two] months after any payment of either falls due the said powers of entering and leasing or selling or any of them may be acted upon without any notice, and also that any contract of sale made under the said power may

payment for one month may on ten days' notice enter on and lease or sell the said lands. And provided also that in case default be made in payment of either principal or interest for two months after any payment of either falls due, the said power of sale and entry may be acted upon without any notice. And also that any contract of sale made under the said power may be varied or rescinded. And also that the said mortgagees, their heirs, executors, administrators and assigns may buy and re-sell without being responsible for any loss or deficiency on re-sale." It was held, Burton, J. A., dissenting, that the power of sale could be validly exercised by the assigns of the mortgagees.

(k) The power in the statutory form is made conditional on notice being given, and therefore where the statutory form is used the mortgage cannot sell without notice. As it has been held that the statutory form cannot be modified by changing the provision for notice to one without notice (*Re Gilchrist and Island*, 11 O.R. 537; *Clark v. Harvey*, 16 O.R. 159; see also R.S.O., c. 121, ss. 29, 34), it is necessary for the conveyancer to make an additional stipulation that after default for a longer period than that mentioned in the power the mortgagee may sell without notice (*Armour on Real Property*, p. 199). Where a notice has to be served on the mortgagor, his heirs or assigns, and the mortgagor has made a second mortgage, the notice must be served upon both the mortgagor and his assign, the second mortgagee (*Hoole v. Smith*, 17 Ch. D. 434). This may be provided against by stipulating that the notice may be served on all the persons named "or some or one of them" (*Bartlett v. Jull*, 28 Gr. 140).

(l) In *Clark v. Harvey*, 16 O.R. 159, the power of sale clause read: "Provided that the mortgagee on default for one day may, without any notice, enter on and lease or sell said lands." On the question as to whether the power could be exercised before entry made upon the land, Galt, C. J., held that the case was distinguishable from *Re Gilchrist and Island*, and that an entry was not necessary prior to sale. On an appeal the court was equally divided. The opinions of the judges in this case are valuable as showing the very opposite decisions which may be arrived at in interpreting instruments purporting to be made in pursuance of the Short Forms Acts.

be varied or rescinded, and also that the mortgagee may buy in and resell the said lands without being responsible for any loss or deficiency occasioned thereby (*m*) and in the case of a sale on credit the mortgagee shall only be bound to pay the mortgagor such moneys as have been actually received from the purchasers after the satisfaction of the mortgagee's claim.

*Purchaser not bound to ascertain default.*

Provided that the purchaser shall in no case be bound to enquire whether notice of intention to sell has been given or default made or otherwise as to the validity of the sale, and any sale by the mortgagee shall be valid as regards the purchaser and the remedy of the mortgagor shall be in damages only, and the sale under the said power shall not be affected.

*Expenses to be charged on land.*

Provided that all costs, charges and expenses incurred in taking, recovering, or keeping possession of the said lands or inspecting the same [including allowance for the time and services of any agent of the mortgagee appointed for such purposes], or in enforcing the personal remedies under this indenture or otherwise in relation to this security or by reason of non-payment or procuring payment of the moneys secured hereby, shall be and they are hereby made a charge upon the said lands, and all sums so paid shall bear interest at the rate herein mentioned, and for any of the said purposes the mortgagee may make and execute all such agreements and assurances as he shall see fit.

*Distress.*

Provided that the mortgagee may distrain for arrears of interest; and as a part of the consideration for the advance of the above sum the mortgagor agrees to waive and doth hereby waive, on the exercise of such right of distress, all rights to exemptions from seizure and distress under any statute of this province.

*Statutory covenant for quiet possession.*

Provided that until default of payment the mortgagor shall have quiet possession of the said lands.

(*m*) *Barry v. Anderson*, 18 A.R. 247.

*Mortgagee not bound to advance mortgage money.*

Provided that the mortgagee shall not be bound, for any reason whatever, to advance the money hereby intended to be secured, or having advanced a part, to advance the balance thereof.

*Mortgagee may pay existing incumbrances, costs, etc.*

Provided that the mortgagee may pay any taxes, rates, assessments, charges and prior incumbrances which are now or shall at any time hereafter become due and be unpaid on or in respect of the said lands, and charge payments therefor, with interest at the rate aforesaid, and may incur and pay all costs, charges and expenses, as between solicitor and client, which may arise in or about the said lands, or in or about the title thereof, or by reason of any charge or claim made thereon or in defence of the title thereto, or in or about any action or proceeding which may be brought by or against the mortgagee in respect of the said lands or in his character of mortgagee, or be incurred in or about the recovering or attempting to recover the money secured by these presents, and the amounts so paid shall be payable forthwith with interest, and in default the powers of sale hereby given shall be exercisable; and in the event of the money hereby advanced, or any part thereof, being applied in payment of any charge or incumbrance, the mortgagee shall stand in the position of and be entitled to all the equities and securities of the persons so paid off.

*Additional interest as on default.*

Provided that in case of the exercise by the mortgagee of any of the remedies given him hereunder for realization of the money hereby secured or any part thereof, he shall be entitled to claim such additional interest as he would be entitled to in case the mortgagor redeemed after default.

*Mortgagee may sell portions to satisfy sums overdue.*

Provided that the mortgagee may, at his discretion, at any time lease or sell any part or parts of the said lands or the equity of redemption in the whole of the said lands, subject to the amount not yet actually payable according to the proviso, to satisfy interest or parts of the principal overdue, leaving the

principal or balance thereof to run at interest payable as aforesaid, and may make any stipulations as to title, or evidence, or commencement of title, or otherwise, which he shall deem proper, and that the mortgagee shall not be accountable for the value of the land so sold, and shall not thereby release any other of the said lands or any of the covenants herein contained or any surety for the mortgage debt or any part thereof.

*No apportionment of mortgage money.*

And it is agreed and declared that every part or lot into which the mortgaged lands are or may hereafter be divided does and shall stand charged with the whole of the money hereby secured, and no person shall have any right to require the mortgage money to be apportioned upon or in respect of any such parts or lots.

*Release of portions of security.*

And the mortgagee may, from time to time, release any parts of the mortgaged lands or any other security for the moneys hereby secured, either with or without any consideration therefor, and without being accountable for the value thereof, or for any moneys except those actually received by the mortgagee and without thereby releasing any other part of the said lands or any of the covenants herein contained, or contained in any collateral security.

*Agreement for profit costs.*

Provided that the fact of the mortgagee, or of any other person for the time being entitled to the benefit of this security, being a solicitor shall not prevent him from advising and transacting business in relation hereto or to the lands hereby mortgaged, and from being entitled to charge the mortgagor for such services the usual and accustomed costs and charges as between solicitor and client, and that until payment all moneys which shall become due in respect of such services as aforesaid, with interest thereon as from the time when the same shall respectively have become due, shall be a charge upon the said lands in like manner as the said principal and interest hereby secured.



*Attornment (n).*

The mortgagee leases to the mortgagor the said lands from the date hereof until such date as the principal money hereby secured becomes due according to the terms hereinbefore mentioned, the mortgagor paying in every year during the said term, on the days in the above proviso for redemption appointed for payment of the moneys hereby secured, such rent or sum as equals in amount the amount payable on such days respectively according to the said proviso. And it is agreed that such payments when so made shall respectively be taken, and be, in all respects, in satisfaction of the moneys so then payable according to the said proviso. And the mortgagor doth attorn and become a tenant from year to year to the mortgagee from the day of the execution hereof at a [half] yearly (and on default in payment of interest, daily) rental, equivalent to, applicable in satisfaction of, and payable at the same times as the interest upon the principal hereinbefore provided to be paid; the legal relation of landlord and tenant being hereby constituted between the mortgagee and mortgagor; but it is agreed that neither the existence of this clause nor anything done by virtue hereof shall render the mortgagee a mortgagee in possession, or accountable for any moneys except those actually received.

*Entry on breach of covenants.*

Provided, and it is agreed that in case any of the covenants or agreements herein contained be untrue, unobserved or broken at any time the mortgagee may, without any previous demand or notice, enter on the said lands or any part thereof in the name of the whole, and take and retain possession thereof and determine the said lease (o).

(n) If the rent reserved is fair and reasonable and the intention is not merely to give the mortgagee an undue advantage over other creditors, but in good faith to obtain an additional security, the arrangement is perfectly valid: *Trust and Loan Co. v. Laurason*, 6 A.R. 286; 10 S.C.R. 679. But if the rent reserved is so unreasonable and excessive as to shew that the parties could not have intended to create a tenancy, and that the arrangement is unreal and fictitious, then the clause will not have the effect of creating the relationship: *Hobbs v. Ontario L. & D Co.*, 18 S.C.R. 483.

(o) This has reference to the attornment clause above.

*Insolvency.*

And it is agreed that should the mortgagor become insolvent or make an assignment for the benefit of his creditors, then the moneys hereby secured shall at once become due and be paid.

*Mortgage collateral security only.*

This mortgage is declared to be collateral to the indebtedness present and future hereby secured, and the mortgagee [and those for whose security this mortgage is made] may from time to time extend the time for the payment of any such indebtedness and may take bills or notes to cover the same or any part thereof, and may from time to time renew such bills and notes and so that the time for payment of any such indebtedness is extended beyond the times mentioned in the proviso without affecting the liability of the mortgagor hereunder or the security hereby given, and nothing but the actual payment and satisfaction of such indebtedness shall discharge the mortgagor or this mortgage.

*Agreement collateral to mortgage.*

It is hereby declared and agreed that this indenture is subject to the provisions of an indenture bearing even date herewith, and made between the mortgagor and mortgagee, and which said indenture is incorporated herewith.

*Agreement binding on heirs, etc. (p).*

It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[*For Affidavit of Execution, see p. 9.*]

[*For Declaration as to Celibacy and Age, see p. 388.*]

(p) This clause renders unnecessary the continual repetition throughout the form of the words "heirs, executors, administrators and assigns," and the chance omission of any one of the words, which is frequently the cause of ambiguity and trouble. Either this clause or the second paragraph on p. 497 may be used. This clause, however, is preferable.

## INSTALMENT MORTGAGE.

(Company form.)

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Mortgages, between — of the — of — in the county of —, —, hereinafter called the mortgagor, of the first part, and The — Company, hereinafter called the company, of the second part, [and —, wife of the mortgagor, of the third part].

WITNESSETH that in consideration of — dollars now paid by the company to the mortgagor, the receipt of which is hereby acknowledged, the mortgagor (who conveys as beneficial and sole owner) doth grant and mortgage unto the company, its successors and assigns, for ever, all that certain parcel of land situate, etc.

The amount of principal money advanced on this mortgage is — dollars, and the rate of interest chargeable thereon is — per cent per annum calculated half yearly, not in advance.

Provided this mortgage to be void on payment of — dollars in equal [half yearly] instalments of — dollars on the first day of the month of — and — in each year during the term of — years (*q*), the first of said instalments to be paid on the first day of — 19—, together with taxes and performance of statute labour.

Provided that on default of payment of any of the instalments hereby secured, or insurance premiums, or any part thereof, at the times provided, interest at the rate above mentioned shall be paid on all sums so in arrear, and also on the interest by this proviso secured at the end of every [half] year that the same shall be unpaid and after as well as before the end of said term. And all moneys hereby secured are payable in gold or its equivalent.

And the mortgagor for himself, his heirs, executors, administrators and assigns, covenants with the company and its assigns, that in the event of non-payment of any or all of the said instalments at the time or times herein provided, or within one month thereafter, with interest for the said month, then the mortgagor, his heirs, executors, administrators or assigns, shall

(*q*) See note (*f*) on p. 498.

not require the company, or its assigns, to accept payment of the said instalments in arrear without paying a bonus equal to three months' interest in advance on the said instalments, such bonus to be in lieu of notice of intention to pay, the right to give or receive which notice is hereby waived (*r*).

And it is further agreed that on default in payment of any instalment such instalment shall bear interest at the rate aforesaid, which interest shall be payable from day to day, and shall itself bear interest at the rate aforesaid if not paid prior to the next gale day, it being agreed that all interest is to be compounded at each day mentioned for payment of interest.

Provided that on default of payment of any portion of the moneys hereby secured, the whole of the instalments hereby secured shall become payable.

The mortgagor covenants with the company that the mortgagor will pay the mortgage money and interest, and observe the above provisos. And that the mortgagor, his heirs, executors, administrators and assigns, will repay to the company, or its assigns, all taxes and assessments which the company may be obliged to pay in respect of the said lands, and all other proper outlays not covered by any other covenant herein.

That the mortgagor will insure the buildings on the said lands to the amount of not less than — dollars; and that the mortgagor, his heirs, executors, administrators and assigns, will repay to the company, or its assigns, all premiums paid by the company or its assigns.

And the company shall have a lien for the mortgage debt on all insurance on the said buildings whether effected under this covenant or not.

And the parties of the first and third parts do grant and release to the company, all his, her or their estate in and claims upon the said lands subject to the said provisos.

Provided that the company, on default of payment for one calendar month, may, on one week's notice (*s*) enter on and lease or sell the said lands. The company may lease or sell as aforesaid without entering into possession of the lands (*t*). Should

(*r*) See note (*g*) on p. 499.

(*s*) See notes (*j*) (*k*) and (*l*) on pp. 503, 504.

(*t*) See note (*l*) on p. 504.

default continue for two months, a sale may be made hereunder without notice. When under the terms hereof a notice is necessary, such notice may be effectually given either by leaving the same with a grown-up person on the said lands if occupied, or by placing it thereon if unoccupied, or, at the option of the company, by publishing the same once in some newspaper published in the county in which the lands are situate. And that the company or its assigns may sell any of the said lands on such terms as to credit and otherwise as shall appear to it most advantageous, and for such prices as can reasonably be obtained therefor, and that sales may be made from time to time of portions to satisfy interest or parts of the principal overdue, leaving the principal or balance thereof to run at interest, payable as aforesaid, and may make any stipulations as to title, or evidence, or commencement of title, or otherwise as it shall deem proper. And may buy in, or re-sell, or vary any contract for sale of any of the said lands, and re-sell without being answerable for loss occasioned thereby, and in the case of a sale on credit the company and its assigns shall only be bound to pay the mortgagor, his heirs, executors, administrators and assigns, such moneys as have been actually received from purchasers after the satisfaction of the company's claim. And for any of the said purposes may make and execute all agreements and assurances it shall think fit. And that the purchaser at any sale hereunder shall not be bound to see to the propriety or regularity thereof. And that no want of notice or of publication when required hereby shall invalidate any sale hereunder, and the above powers may be exercised by assigns of the company, and against the heirs, executors, administrators and assigns of the mortgagor.

[The party of the third part hereby bars her dower (*u*) in the said lands.]

Provided that the company may distrain for arrears of instalments.

And it is agreed that the powers of the company under the foregoing proviso may also be exercised to enforce payment of any instalments hereby secured and in arrears. It is also

(*u*) A married woman may bar her dower although under 21 years of age (R.S.O., c. 165, s.5). See also Appendix C, on Dower.

agreed that the same proviso shall be held not to conflict in any way with the attornment clause following, but that the powers incident to both clauses may be exercised either separately or together.

The mortgagor doth attorn and become tenant from year to year to the company from the day of the execution hereof at a [half] yearly rental equivalent to, applicable in satisfaction of, and payable at the same time as the instalments hereinbefore provided to be paid; the legal relation of landlord and tenant being hereby constituted between the company and the mortgagor; but it is agreed that neither the existence of this clause, nor anything done by virtue thereof, shall render the company a mortgagee in possession, so as to be accountable for any moneys except those actually received.

It is agreed that neither the execution nor registration of this mortgage, nor the advance in part of the moneys secured hereby shall bind the company to advance the said moneys or any unadvanced portion thereof.

And it is hereby declared that in case the company satisfies any charge on the lands, the amount paid shall be payable forthwith with interest, at the rate aforesaid, and in default the powers of sale hereby given shall be exercisable, and in the event of the money hereby advanced, or any part thereof, being applied to the payment of any charge or encumbrance, the company shall stand in the position and be entitled to all the equities of the person or persons so paid off.

And the mortgagor for himself, his heirs, executors, administrators and assigns, covenants and agrees with the company and its assigns that the company or its assigns may at such time or times as they may deem necessary and without the concurrence of any other person make such arrangements for the repairing, finishing and putting in order any buildings or other improvements on the mortgaged premises, and for the inspecting, taking care of, leasing, collecting the rents of and managing generally the mortgaged property as they may deem expedient, and all reasonable costs, charges and expenses [as between solicitor and client], including allowance for the time and services of any agent of the company or other person appointed for the above purposes, shall be forthwith payable to the company or its

assigns, and shall be a charge upon the mortgaged property and shall bear interest at the mortgage rate until paid.

And that the company and its assigns may, at their discretion at all times release any part or parts of the said lands, or any other security for the moneys hereby secured, either with or without any consideration therefor, and without being accountable for the value thereof or for any moneys except those actually received by them, and without thereby releasing any other of the said lands or any of the covenants herein contained.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### MORTGAGE

#### TO SECURE ENDORSEMENT OF PROMISSORY NOTE.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Mortgages, between — of the — of — in the county of —, —, hereinafter called the mortgagor, of the first part; — of the — of — in the county of —; —, hereinafter called the mortgagee, of the second part [and —, wife of the mortgagor, of the third part].

WHEREAS the mortgagee, on the security of these presents, has endorsed the promissory note of the mortgagor for the sum of — dollars, which note is dated the — day of — 19—, and is payable — months after date at —, [a copy of which is hereto annexed marked "A"].

AND WHEREAS the mortgagor has agreed to execute these presents for the purpose of indemnifying the mortgagee from the payment of the said note or any part thereof, or of any note or notes which may hereafter be given by way of renewal of the said note or of any interest to accrue thereunder or otherwise howsoever.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of one dollar now paid by the mortgagee to the mortgagor (the receipt whereof is hereby acknowledged), the mortgagor doth grant and mortgage unto the mortgagee, his heirs and assigns forever, all that certain parcel of land, situate, etc.

[And the said —, wife of the mortgagor, hereby bars her dower in the said lands.]

Provided this mortgage to be void on payment of the said promissory note with interest at the rate of — per cent upon the date of the maturity of the said note, arrears of both principal and interest to bear interest at the said rate, and payment of the said note may be made to the holder thereof and such payment shall satisfy this proviso; and taxes and performance of statute labour.

It is agreed that this mortgage is taken as collateral security only for the due payment of the said note and of any note or notes that may at any time be accepted by the mortgagee in renewal of or substitution for the said note or any part thereof, and that none of the rights or remedies of the holder of the said note or notes shall be merged in or prejudiced in any way by the acceptance of these presents as a collateral security therefor.

And the mortgagor covenants with the mortgagee that the mortgagor will pay the mortgage money and interest and observe the above provisoes. That the mortgagor has a good title in fee simple to the said lands, and that he has the right to convey the said lands to the mortgagee, and that on default the mortgagee shall have quiet possession of the said lands free from all incumbrances. And that the mortgagor will execute such further assurances of the said lands as may be requisite. And that the mortgagor has done no act to incumber the said lands. And that the mortgagor will insure the buildings on the said lands to the amount of not less than — currency.

And the mortgagor doth release to the mortgagee all his claims upon the said lands, subject to the said provisoes.

Provided the mortgagee on default of payment for [one] month may, on [ten days] notice, enter on and lease or sell the said lands. Provided that the mortgagee on such default of payment for [two] months may without giving any notice enter on and lease or sell the said lands. Provided that the mortgagee may distrain for arrears of interest.

Provided that until default of payment the mortgagor shall have quiet possession of the said lands.



Provided that on default in payment of the said note or any renewal thereof interest at the rate of — per cent per annum shall be charged on all amounts so in default from the date of such default, and such interest shall be collectable under the power of sale hereinbefore given.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### AGREEMENT EXTENDING MORTGAGE

#### BETWEEN THE ORIGINAL MORTGAGOR AND MORTGAGEE.

THIS AGREEMENT made the — day of — 19—, between — of the — of —, —, hereinafter called the mortgagee, of the first part, and — of the — of —, —, hereinafter called the mortgagor, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, the mortgagor mortgaged to the mortgagee certain lands situate in the — of —, to secure the payment of — dollars and interest as therein set out, whereof there is now unpaid thereon for principal the sum of — dollars with interest at — per cent per annum from the — day of — 19—.

AND WHEREAS the mortgagor, claiming still [*or, now*] to be the owner of the said lands subject to the said mortgage, has applied to the mortgagee to alter the terms of payment of the said mortgage moneys, which he has agreed to do upon the terms herein contained.

NOW IT IS HEREBY AGREED that the said sum of — dollars shall be payable on the — day of — 19—, with interest from the — day of — 19— at the rate of — per cent per annum payable [*half*] yearly upon principal or interest on the — days of — and — in each year until the principal be fully paid (as well after as before maturity) the first of such payments of interest to be made on the — day of — 19—, arrears of both principal and interest to bear interest at the rate last above mentioned and such interest on arrears to be a charge on the land.

And the mortgagor, for himself, his heirs, executors, administrators and assigns, covenants and agrees with the mortgagee,

his executors, administrators and assigns, to make the said payments accordingly. And it is declared and agreed that the said mortgage and all covenants, clauses, provisoes, powers, matters and things whatsoever contained therein shall continue in force and applicable to the said amount and dates and altered terms of payment herein contained but that there shall be no right of premature repayment except as herein mentioned and any statutory right in that behalf shall take effect as if the said mortgage had been dated on the date of this agreement.

Provided however that these presents shall not create any merger or alter or prejudice the rights of the mortgagee as regards any security collateral to the said mortgage, or as regards any surety or subsequent incumbrance or any person not a party hereto liable to pay the said mortgage money or interested in the said lands, or the rights of any such surety, subsequent incumbrancer or other person, all of which rights are hereby reserved.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### AGREEMENT EXTENDING MORTGAGE.

BETWEEN A PURCHASER FROM THE MORTGAGOR AND AN  
ASSIGNEE OF THE MORTGAGEE.

THIS AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, —, of the first part, and — of the — of — in the county of —, —, of the second part.

WHEREAS by a mortgage dated the — day of — 19— and registered in the registry office for the county of — on the — day of — 19— as number —, one A. B. of — mortgaged to C. D. of —, his heirs, executors, administrators and assigns, all that certain parcel of land, situate, etc., to secure the sum of — dollars, payable as set out in the said mortgage.

AND WHEREAS by an indenture dated the — day of — 19— the said C. D. assigned the said mortgage, together with the lands thereby described and the moneys thereby secured, to the party of the second part.

AND WHEREAS there is now due upon the said mortgage for principal money the sum of — dollars, and interest thereon from the — day of — 19— at the rate of — per cent per annum.

AND WHEREAS the party of the first part has purchased the said lands from the said A. B., and alleges that he is now the owner in fee simple of the said lands subject to the said mortgage, and has assumed payment of the said mortgage debt, and has agreed with the party of the second part to pay off the same.

AND WHEREAS the party of the first part has requested the party of the second part to extend the time for the payment of the said moneys, which the party of the second part agrees to do in consideration of the covenants of the party of the first part herein contained.

NOW THEREFORE in consideration of the premises the party of the first part, for himself, his heirs, executors and administrators, covenants with the party of the second part, his heirs, executors, administrators and assigns, that he will pay the said principal sum of — dollars on the — day of — 19—, with interest on all sums from time to time remaining unpaid thereon at the rate of — per cent per annum, as well after as before maturity, payable [half-yearly] on the — days of — and — in each year until the said principal sum is paid; the first payment of interest to be made on the — day of — 19—.

[If required, add: And the party of the first part hereby waives all rights of prepayment in the said mortgage contained.]

And it is hereby agreed between the parties hereto that this agreement shall, from the date hereof [or, from the — day of —], and without prejudice to the present state of the mortgage account, be read and construed along with the said mortgage, and be treated as a part thereof, and for such purpose, and so far as may be necessary to effectuate these presents the said mortgage shall be regarded as being hereby amended, and the said mortgage as so amended, together with all the covenants and provisions thereof, shall remain in full force and effect.

Provided that nothing herein contained shall affect or prejudice the rights of the party of the second part as against the said mortgagor A.B., his heirs, executors, administrators or assigns, or as against any surety for the payment of the said mortgage debt or any part thereof, or as against any subsequent encumbrancer or other person interested in the said lands, or the rights of any of the persons aforesaid, which rights are hereby reserved.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### ASSENT OF SUBSEQUENT MORTGAGEE

#### TO EXTENSION OF PRIOR MORTGAGE.

WHEREAS I, —, am the holder of a second [*or, third, etc.*] mortgage upon the lands within described [*or, referred to*] in consideration of one dollar now paid to me (the receipt whereof I hereby acknowledge), and in consideration also of the within written agreement for extension, I do hereby assent to the same and agree not to tender payment of the mortgage money therein mentioned until after the expiration of the time agreed upon in the said agreement for extension.

Dated this — day of — 19—.

WITNESS:

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### AGREEMENT POSTPONING MORTGAGE.

WHERE A PRIOR MORTGAGEE POSTPONES HIS MORTGAGE TO THAT OF A SUBSEQUENT MORTGAGEE.

THIS INDENTURE made the — day of — 19—, between A. B. [*prior mortgagee*] of —, of the first part, and C. D. of —, of the second part.

WHEREAS by a mortgage made between X. Y. of —, of the first part, and A. B. of the second part, which mortgage is dated the — day of — 19—, and was registered on the

— day of — 19—, as number —, A. B. is mortgagee of all said certain parcel of land, situate, etc., for securing payment of the sum of — dollars and interest as set out in the said mortgage.

AND WHEREAS by a mortgage made between the said X. Y., of the first part, and C. D., of the second part, which mortgage is dated the — day of — 19—, and was registered on the — day of — 19—, as number —, C. D. is mortgagee of the lands hereinbefore described for securing payment of the sum of — dollars and interest as set out in the said mortgage.

AND WHEREAS upon the negotiation for the making of the said last mentioned mortgage it was agreed that the same should be an encumbrance upon the said lands prior to the first mentioned mortgage.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of one dollar to him now paid by the said C.D., the receipt whereof he doth acknowledge, the said A.B. covenants and agrees with the said C.D., his heirs, executors, administrators and assigns, that the said last mentioned mortgage number — shall be an encumbrance upon the said lands prior to the said first mentioned mortgage number — in the same manner and to the same effect as if it had been dated and registered prior to the first said mentioned mortgage. And in order to effectuate the same the said A.B. doth grant and release unto the said C.D. in fee simple all that certain parcel of land, situate, etc.

To hold unto and to the use of the said C.D., his heirs and assigns, for all the estate, right, title and interest granted or intended to be granted to him and them by the said mortgage made to him, together with all the rights, powers and conditions contained in the said mortgage, but subject to the equity of redemption existing by virtue thereof. Reserving nevertheless to the said A.B., his heirs, executors, administrators and assigns, his and their right, title and interest as mortgagees by virtue of the said first mentioned mortgage as a mortgage of the equity of redemption in the said lands existing by virtue of the said secondly mentioned mortgage.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## AGREEMENT POSTPONING MORTGAGE.

*(Another form, made with a company.)*

THIS INDENTURE made the — day of — 19—, between — [prior mortgagee] of —, hereinafter called the grantor, of the first part, and the — company, hereinafter called the company, of the second part.

WHEREAS the grantor is entitled to a lien or charge on all that certain parcel of land, etc., by virtue of an indenture dated the — day of — 19—, made between one — of — of the first part, and the grantee herein of the second part.

AND WHEREAS the said — has recently applied to the company for an advance of — dollars on the security of the said lands, which the company has agreed to give on getting an unincumbered title to the said lands.

AND WHEREAS in pursuance of the said agreement a mortgage has been executed by the said — to the company for the said sum of — dollars, which mortgage is dated the — day of — 19—, and was registered in the registry office for the — of — on the — day of — 19—, as number —.

AND WHEREAS to give the company an unincumbered title as aforesaid, and to enable the said advance to be made, the grantor has agreed to execute these presents.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum of — dollars, the grantor doth hereby grant to the company priority over his interest in the said lands by virtue of the said indenture of the — day of — 19—, and doth hereby postpone the said indenture, and all his right, title and interest thereunder in and to said lands, to the said mortgage of the company, to the intent that the interest of the grantor in the said lands shall be subject to the rights of the company under the said mortgage as if the said mortgage had been executed and registered before the said indenture of the — day of — 19—, and the grantor doth grant and release to the company, in fee simple, all that certain parcel of land, situate, etc.

To hold unto and to the use of the company, its successors and assigns, together with all the rights, powers and conditions contained in the said indenture, but subject to the equity of

redemption existing by virtue thereof. Reserving nevertheless to the grantor, his heirs, executors, administrators and assigns, his and their title as mortgagees by virtue of the said indenture as mortgages of the equity of redemption in the said lands existing by virtue of the said secondly mentioned mortgage.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### ALTERATION OF TERMS OF MORTGAGE.

##### ALTERATION OF RATE OF INTEREST AND TIMES OF PAYMENT.

THIS INDENTURE made the — day of — 19—, between C.D., of —, hereinafter called the mortgagee, of the first part, and A.B. of —, hereinafter called the mortgagor, of the second part.

WHEREAS by a mortgage dated the — day of — 19— the mortgagor did grant and mortgage to the mortgagee all that certain parcel of land, etc., upon the terms therein mentioned.

AND WHEREAS the principal sum of — dollars secured by the said mortgage still remains due and owing to the mortgagee but all interest accrued due thereon to the date hereof has been fully paid.

NOW THIS INDENTURE WITNESSETH that from the — day of — 19 — interest shall be payable upon the said principal sum (or so much thereof as shall from time to time remain owing on the security thereof) at the rate of — per cent per annum instead of — per cent per annum as provided by the said mortgage, and shall be payable in [equal half-yearly instalments] on the — day of — and the — day of — in each year [or as the case may be], instead of by the instalments and on the dates mentioned in the said indenture.

Provided that nothing herein contained shall create any merger or alter the rights of the mortgagee as against any subsequent encumbrancer or other person interested in the said lands and not a party hereto, or the rights of any such person, all of which rights are hereby reserved.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## ACKNOWLEDGMENT BY MORTGAGOR

## OF AMOUNT DUE.

I, —, of —, hereby admit that the mortgage made by me to — of —, dated the — day of — 19—, registered in the registry office for the county of —, etc., is a good and valid security, and has not in any way been invalidated or discharged, and that the principal sum of — dollars, and interest thereon at the rate of — per cent per annum from the — day of — 19—, is unpaid.

Dated at — the — day of — 19—.

[Signature of mortgagor.]

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## ASSIGNMENT OF MORTGAGE.

*(General form.)*

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the first part, and — of —, hereinafter called the assignee, of the second part.

WHEREAS by a mortgage dated the — day of — 19— one — mortgaged the lands hereinafter mentioned, to secure the payment of certain moneys and interest as is therein set out, unto the assignor.

AND WHEREAS the assignor has agreed to sell and assign the said mortgage to the assignee.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged) the assignor doth grant and assign unto the assignee, his heirs, executors, administrators and assigns, for ever, all that certain parcel of land situate, etc., together with the said mortgage and all moneys and interest thereby secured (*v*).

(*v*) Since the assignee of a mortgage takes subject to all the equities and settlements of accounts between the mortgagor and the mortgagee it is desirable that the mortgagor should be a party to the assignment, or at least recognize the existence of the mortgage debt (see form above) and, if the mortgagee be in possession, assent to the transfer, in which case the following covenant may be added at the end of the form:

"And the said —, the mortgagor hereinbefore named, by his execution of this indenture, hereby assents to the said assignment and admits



To hold unto and to the use of the assignee, his heirs, executors, administrators and assigns, subject to the equity of redemption subsisting therein by virtue of the said mortgage.

The assignor, for himself, his heirs, executors, administrators and assigns, covenants with the assignee, his heirs, executors, administrators and assigns (*w*), that he, the assignor, has done no act whereby the said mortgage has been in anywise released, discharged or incumbered, or whereby the lands thereby mortgaged have been in anywise incumbered, and that there is now unpaid and secured by the said mortgage the sum of — dollars with interest at — per cent from the — day of — 19—, and that the assignor, his heirs, executors and administrators, will from time to time, at the request and at the cost of the assignee, his heirs, executors and administrators, do, perform and execute every act, deed, matter and thing which may be deemed necessary for further assuring the said lands and mortgage moneys to the assignee, his heirs, executors, administrators and assigns, or for enforcing the covenants or conditions contained in the said mortgage.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### ASSIGNMENT OF MORTGAGE.

WHEN DEMANDED BY SUBSEQUENT ENCUMBRANCER PAYING OFF PRIOR ENCUMBRANCES.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the assignor, of the first part, and — of —, hereinafter called the assignee, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, one — mortgaged the lands hereinafter mentioned to secure the payment of certain moneys and interest as is therein set out, unto the assignor.

that there is now unpaid and secured by the said mortgage the sum of — dollars and interest thereon as above mentioned."

(*w*) When it is desired that the assignor should covenant on behalf of the mortgagor for payment of the mortgage moneys add: "That the said mortgagor will pay all moneys and interest secured by the said mortgage in the manner therein provided."

AND WHEREAS the assignor has agreed to assign the said mortgage to the assignee.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the assignee to the assignor, the receipt whereof is hereby acknowledged, the assignor doth grant and assign unto the assignee, his heirs, executors, administrators and assigns, forever, all that certain parcel of land situate, etc., together with the said mortgage and all moneys and interest thereby secured.

To hold unto and to the use of the assignee, his heirs, executors, administrators and assigns, subject to the equity of redemption subsisting therein by virtue of the said mortgage.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### COVENANT WITH MORTGAGEE

BY PURCHASER OF EQUITY OF REDEMPTION (x).

THIS AGREEMENT made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the covenantor, of the first part, and the — company, of the second part.

WHEREAS the covenantor has recently purchased all that certain parcel of land, situate, etc., subject to a certain mortgage thereon dated — and made by — to the said company and registered as number —, which the covenantor has agreed to assume and pay.

(x) The agreement made between the grantee and the mortgagee of the land, is one of convenience rather than necessity. Since the grantee purchased the equity of redemption from the grantor, the mortgagee (company) has no direct contract with the purchaser. This form is specially applicable when there is an attornment clause in the mortgage, which clause is usually binding on the assign of the mortgagor, and the purchaser is therefore bound to attorn tenant to the mortgagee, and probably the mortgagee, on getting notice of the sale, may treat the purchaser as its tenant without any formal contract. The best method is, however, for the mortgagee to ask for an agreement in the form given, and thereby to obtain the purchaser's direct covenants with it as mortgagee. The purchaser, on the other hand, will then receive direct from the mortgagee notices of instalments becoming due, insurance renewals, etc., which would otherwise be sent to the original mortgagor who often neglects to forward them to the purchaser.

NOW THIS AGREEMENT WITNESSETH that the covenantor, in consideration of the premises and of the sum of one dollar to him now paid by the said company, the receipt whereof is hereby acknowledged, doth hereby for himself, his heirs, executors and administrators, covenant with the said company, its successors and assigns, that he, the covenantor, or his heirs, executors, administrators or assigns will pay to the said company its successors and assigns, at the office of the said company in in —, all such sums of money as are now or shall at any time hereafter become due or payable for principal and interest or otherwise under or by virtue of the said mortgage at the time and in the manner therein provided.

And also that the covenantor, his heirs, executors, administrators and assigns will at all times do, observe, perform and keep all and singular the covenants, provisoes, conditions and stipulations in and by the said mortgage provided to be done, observed, performed or kept on the part of the said mortgagor therein named, and that in default thereof the said company shall and may have as against him, the covenantor, and his heirs, executors, administrators and assigns, every remedy which the said company could or might have had as mortgagee under the said mortgage against the mortgagor therein named in case of default thereunder.

And the covenantor hereby attorns tenant to the said company of the said lands at a rental equivalent to and payable on the days for payment of the interest reserved by the said mortgage.

Provided always that in case of default made in payment of the said rent, or of any payment under the said mortgage, for [two months] the said company may, at any time thereafter without notice to the covenantor, enter upon the said lands, or any part thereof, and determine the tenancy hereby created.

The said company agrees to accept the covenantor as tenant as aforesaid, retaining nevertheless all rights and remedies against the said mortgagor and all other parties liable in respect of the said mortgage.

IN WITNESS whereof the parties hereto have hereunto set their hand and seal and corporate seal respectively.

SIGNED, SEALED, etc.

## DISTRESS WARRANT.

FOR INTEREST ON A MORTGAGE.

To, —, my bailiff in this behalf.

I hereby authorize and require you to distrain the goods and chattels [*or, growing crops,*] of [*mortgagor*] in and upon the lands and premises situate, etc., for the sum of — dollars, being interest due to me under a mortgage dated the — day of — 19— made by the said —, as mortgagor, [and his wife for the purpose of barring dower] to me upon the said lands and premises, and to proceed for the recovery of the said interest as the law directs. [But you are expressly prohibited from distraining any property not liable to seizure under execution, although otherwise legally liable to a distress for interest by way of rent reserved under the said mortgage.]

Dated this — day of — 19—.

[Signature of mortgagee.]

## DISCHARGE OF MORTGAGE.

(R.S.O., c. 136, Schedule L.)

PROVINCE OF —, }

To Wit:

} To the Registrar of the [county] of —.

I, —, of — do certify that — of — has satisfied all money due on, or to grow due on, a certain mortgage made by — of — to —, which mortgage bears date the — day of —, A.D. 19—, and was registered in the registry office for the [county] of — on the — day of —, A.D. 19—, at — minutes past — o'clock in the [fore] noon in liber — for —, as number —, and that such mortgage has not been assigned [*or, has been assigned by indenture of assignment dated the — day of —, A.D. 19—, and registered (here give particulars of registration, as above,) and that such mortgage has not been further assigned (or as the case may be).*]

And that I am the person entitled by law to receive the money, and that such mortgage is therefore discharged.

WITNESS my (y) hand this — day of —, A.D. 19—.

WITNESS: }

[one witness.] }

(y) One executor can discharge a mortgage (*Ex parte Johnson*, 6 P. R. 225.)

## AFFIDAVIT OF EXECUTION.

## OF DISCHARGE OF MORTGAGE.

COUNTY OF —, } I, —, of the — of — in the  
To Wit: } county of —, —, make oath and say:

1. I was personally present and did see the within certificate of discharge of mortgage duly signed and executed by —, [one of] the parties thereto.

2. The said instrument was executed at the — of —.

3. I know the said party [or, parties].

4. I am a subscribing witness to the said instrument.

SWORN, etc.

## PARTIAL DISCHARGE OF MORTGAGE (2).

(R.S.O., 136, Schedule L.)

PROVINCE OF —, }  
To Wit: } To the Registrar of the [county] of —.

I, —, of — do certify that — of — has satisfied the sum of — dollars, part of the moneys mentioned in a certain mortgage made by — of — to —, which mortgage bears date the — day of —, A.D. 19—, and was registered in the registry office for the [county] of — on the — day of —, A.D. 19—, at — minutes past — o'clock in the [fore] noon in liber — for — as number —, and that such mortgage has not been assigned [or, has been assigned by indenture of assignment dated the — day of —, A.D. 19—, and registered (*here give particulars of registration, as above*), and that such mortgage has not been further assigned (*or as the case may be*)].

And that I am the person entitled by law to receive the money, and that such part of the lands as is herein particularly described, that is to say: [*describe land*], is therefore discharged.

WITNESS my hand this — day of —, A.D. 19—.

WITNESS:

[*For Affidavit of Execution, see above.*]

(2) For form releasing part of mortgaged lands by deed, see under "Releases."

## DISCHARGE OF MORTGAGE

AFTER SALE OF EQUITY UNDER EXECUTION.

(R.S.O., c. 77, s. 31.)

To the Registrar of the [county] of —.

I, A.B., of —, do certify that C.D., of —, who has become the purchaser of the interest of E. F., of —, has satisfied all money due upon a certain mortgage made by the said E.F. to me, bearing date the — day of — 19—, and registered at — of the clock in the [fore] noon of the — day of — in the year 19—, and that such mortgage is therefore discharged.

As WITNESS my hand this — day of — 19—.

E.H. of —, ) Witnesses.

A.B.

G.H. of —, )

[For Affidavit of Execution, see p. 528.]

## MORTGAGE OF LEASE

BY WAY OF SUB-LEASE (a).

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the mortgagor, of the first part, and — of —, hereinafter called the mortgagee, of the second part.

WHEREAS by a lease dated the — day of — 19—, one — of —, as lessor, demised and leased unto the mortgagor, as lessee, that certain parcel of land, situate, etc., to hold for the term of — years from the — day of — 19—, subject to the yearly rent of — dollars, and with certain covenants for [renewal, or, payment for buildings and improvements] as therein set out.

(a) Where the whole term has been assigned to a mortgagee he is liable on the covenants in the lease to the same extent as a purchaser of the term would be (See *Jamieson v. London & Canadian*, 26 A. R. 116; 30 S.C.R. 14). If however the rent be of less amount than the annual value of the property, and the covenants binding on the assignee be not too onerous, it is better to make the mortgage by way of assignment than by underlease. (See *Armour on Real Property*, p. 214). If the rent be too large, and the covenants binding on the assignee are burdensome, the form on page 535 is preferable. As to what covenants are binding on assignees, see 1 *Smith's Leading Cases* 52; *Western v. Macdermot*, L.R. 1 Eq. 499; *Wilson v. Hart*, 1 Ch. App. 463.

AND WHEREAS the mortgagor has applied to the mortgagee for a loan upon the security of the said leasehold lands and term of years.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of — dollars now paid by the mortgagee to the mortgagor, the receipt whereof is hereby acknowledged, the mortgagor doth demise and lease unto the mortgagee all and singular the said leasehold lands and all buildings thereon with their appurtenances, to hold unto the mortgagee for and during the term of years from the day of the date hereof to the day which is one day before the last day of the term of years demised by the said in part recited lease, yielding and paying therefor yearly on the [second] day of [January] in each year during the term hereby demised the sum of [twenty cents] if lawfully demanded. And further the mortgagor hereby covenants with the mortgagee that in case of the value of the buildings and improvements on the said lands becoming payable to the mortgagor, pursuant to the term of the said lease, the amount so payable shall be applied, pro tanto, in or towards payment of the moneys and interest hereby secured, and also if and when a renewal lease of the said demised premises shall be granted instead of payment for such buildings and improvements then the mortgagor will forthwith at his own expense make and execute a demise of the said lands and buildings to the mortgagee for a new term to end upon the day which is one day prior to the last day of the renewed term which may be so granted, with all the like covenants, clauses, provisoes, matters and things as are herein contained, including the foregoing covenants for application of moneys payable for buildings and improvements and a new lease, and so on as often as occasion may require while any moneys remain unpaid on this security, and subject to a proviso for determination on payment of the moneys and interest then remaining unpaid on this security.

Provided that if the mortgagor do pay unto the mortgagee the sum of — dollars with interest at — per cent per annum as follows: the said principal sum on the — day of — 19—, and interest half yearly on the — days of — and — in each year, until the principal be fully paid (as well after as before maturity) the first payment of interest to be made on the —

day of — 19—, arrears of both principal and interest to bear and interest at the rate above mentioned, and such interest on arrears to be a charge on the lands in the same manner as all other moneys hereby secured, the said several payments of principal and interest to be made in gold if required; and if the mortgagor do pay all rents reserved and payable in respect of the term of years granted by the said in part recited lease and all renewals and extensions thereof and all rates, taxes and charges whatsoever payable upon or in respect of the said lands, buildings and erections, and all premiums of insurance upon the buildings upon the said lands and all payments which are or may be payable in respect of or in consequence of anything contained in the said in part recited lease and any and all renewals and extensions thereof, and observe and perform all covenants, provisoes and conditions herein contained, then these presents shall cease and be void and the term hereby granted shall cease and be determined.

And the mortgagor covenants with the mortgagee that the mortgagor will pay or cause to be paid unto the mortgagee the said principal sum and interest at the times and in the manner above provided, and also (unless and until upon default the mortgagee do enter into possession of the said lands and buildings or do exercise the powers to sell the said lands and buildings hereby granted) will pay the said rents, rates, taxes, charges, premiums of insurance and payments and perform and observe all the covenants and conditions expressed or implied in or by the said in part recited lease and any and all extensions and renewals thereof and indemnify and save harmless the mortgagee against payment of any such rents, rates, taxes, charges, premiums of insurance and payments, and against all loss, costs, damages and forfeitures whatsoever occasioned by or by reason of or consequent upon any non-payment, nonperformance or non-observance in the premises; and further that if the mortgagor make default in payment of any such rents, taxes, rates, charges, premiums of insurance or payments, and the mortgagee do pay the same or any part thereof, the mortgagor will pay to him the amount so paid with interest thereon, and the said lands and buildings shall stand charged therewith upon this security.

And the mortgagor covenants with the mortgagee that the



said in part recited lease is at the time of the sealing and delivery of these presents a good, valid and subsisting lease in the law and not surrendered, forfeited or become void or voidable, and that the rents and covenants therein reserved and contained have been duly paid and performed by the mortgagor up to the day of the date hereof, and that the mortgagor now has in himself good right, full power and lawful and absolute authority to demise and sub-let the said lands and buildings and to covenant for payment for buildings and improvements and to grant a new sub-lease in manner aforesaid and according to the true intent and meaning of these presents.

Provided that until default in payment of some part of the moneys and interest hereby secured the mortgagee shall not enter into possession of the said demised lands or buildings or any part thereof; but in the case of default in payment to the mortgagee of any of the moneys or interest hereby secured or any part thereof, or performance of the covenants herein contained, the mortgagee may enter into and upon and hold and enjoy the said lands and buildings for the then residue of the said term of years hereby demised for his own use and benefit without the let, suit, hindrance, interruption or denial of the mortgagor or any other person whatsoever; and that free and clear and freely and clearly acquitted, exonerated and discharged or otherwise by and at the expense of the mortgagor well and effectually saved, defended and kept harmless of, from and against all former and other gifts, grants, bargains, sales, leases and other encumbrances whatsoever.

And that the mortgagor has not, nor has any other person heretofore, made, done, committed or suffered any act, deed, matter or thing whereby or by reason whereof the said lands and buildings or any part thereof have or has been or may be in any wise charged, affected or encumbered.

And that the mortgagor and all other persons claiming any interest in the said lands and buildings shall and will from time to time and at all times hereafter at the request of the mortgagee make, do and execute or cause and procure to be made, done and executed all such further acts, deeds, assignments and assurances in the law for more effectually demising and assuring or securing the said lands and buildings to the mortgagee, according to

the true intent and meaning of these presents as by the mortgagee or his or their counsel in the law shall be reasonably advised or required.

And also that the mortgagor will at the proper time and times take such proceedings and make, do and execute all such acts, deeds, matters and things as may be requisite for obtaining a renewal of the said lease or payment for the buildings and improvements upon the said lands.

And also (unless and until upon default the mortgagee do enter upon or lease or sell the said lands and buildings) will from time to time insure and keep insured against loss or damage by fire, in some insurance company to be approved by the mortgagee, the buildings on the said lands in the full amount of their insurable value from time to time, and at the expense of the mortgagor immediately assign the policy or policies of insurance and all benefit thereof to the mortgagee as additional security for the payment of the moneys and interest hereby secured, and that in default of such insurance the mortgagee may effect the same, and the moneys paid therefor shall be immediately payable to him by the mortgagor, and (with interest thereon) shall be a charge upon the said lands and buildings until so paid.

Provided and it is agreed that on default of payment of any part of the interest hereby secured, or any part of the said rents, rates, taxes, charges, premiums of insurance or other payments, the principal money hereby secured shall become payable, but that in such case at any time before any judgment in the premises be recovered, or within such time as by the practice of equity relief therein could be obtained, the mortgagor shall, on payment of all arrears and costs, be relieved from the consequence of non-payment of so much of the money as has not become payable by lapse of time.

It is hereby declared and agreed that in case of default in payment of any of the moneys or interest hereby secured or any part thereof and two months shall have elapsed without such payment being made (of which default, as also of the continuance of some part of the said moneys or interest on this security the production of these presents shall be conclusive evidence) the mortgagee may, without any further consent or

concurrence of the mortgagor, enter into possession of the said lands and buildings and receive and take the rents, issues and profits thereof, and whether in or out of possession make any such sub-lease thereof as he shall think fit, and also may sell and absolutely dispose of the said lands and buildings thereon and the then unexpired term of years therein demised by the said in part recited lease and the right of renewal therein or any part or parts thereof by public auction or private contract or partly by one and partly by the other and may withdraw from sale or buy in and resell or vary or rescind any contract of sale without being responsible for any loss, costs, or deficiency thereby occasioned, and may make such terms and conditions of sale and agreements as to title, price and all other matters whatsoever as he may deem expedient, and may convey, assign and assure the same when so sold to the purchaser or purchasers, his or their executors, administrators and assigns; provided that the mortgagee shall stand possessed of the said lands and buildings and the rents and profits thereof until sale and then of the proceeds of sale in trust, firstly, to pay all costs of getting and keeping possession of the said lands and buildings and of and about the leasing and selling thereof and rents and taxes thereof and costs of making such repairs as he shall deem necessary, secondly to pay all moneys and interest hereby secured, and lastly to pay the surplus, if any, to the mortgagor, and to reconvey to him the said lands and buildings or so much thereof, if any, as shall remain unsold.

The mortgagor covenants with the mortgagee that he will keep the said lands and the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof respectively, and that in case of neglect to do so or if the mortgagor or those claiming under him commit any act of waste on the said lands or make default as to any of the covenants or provisoes herein contained the principal hereby secured shall, at the option of the mortgagee, forthwith become due and payable, and in default of payment the powers of entering upon and leasing and selling hereby given may be exercised.

And it is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the

benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, respectively.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### MORTGAGE OF LEASE.

#### BY WAY OF ASSIGNMENT (b).

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the mortgagor, of the first part, and — of the — of — in the county of —, —, hereinafter called the mortgagee, of the second part.

WHEREAS by a lease dated the — day of — 19— one — of —, as lessor, demised and leased unto the mortgagor, as lessee, the lands hereinafter mentioned, for the term of — years from the — day of — 19—, subject to the rents, covenants and conditions therein reserved and contained.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the mortgagee to the mortgagor (the receipt whereof is hereby acknowledged), the mortgagor, who conveys as beneficial owner, doth grant, assign and mortgage unto the mortgagee all that certain parcel of land, etc., with the appurtenances and all other the premises demised by the said lease and the unexpired term of years [and the rights of renewal] and all other the estate and interest of the mortgagor therein. To have and to hold the same unto and to the use of the mortgagee.

Provided this mortgage to be void on payment of — dollars with interest thereon at — per cent per annum as follows:—; interest on all principal remaining unpaid at the rate aforesaid to be paid [half] yearly on the first day of — and — in each and every year until the said principal sum shall be fully paid and satisfied, and after as well as before the maturity of this mortgage at said rate, [and principal and interest to be paid in gold if required by the mortgagee]. The first of

(b) See note (a) on p. 529.

said instalments of interest to become payable on the first day of — 19—, and interest on interest in arrear and other charges to be paid as hereinafter provided. And taxes and performance of statute labour.

The mortgagor covenants with the mortgagee that the mortgagor will pay the mortgage money and interest and observe the above proviso, and that the mortgagor will insure the buildings on the said lands to the amount of not less than — dollars. And the mortgagor doth release to the mortgagee all his claims upon the said lands subject to the said proviso.

Provided that the mortgagee on default of payment for one month may on one week's notice enter on and lease or sell the said lands for cash or credit, and that on default of payment for two months such entry, lease or sale may be made without notice.

It is agreed that the foregoing provisos, covenants and release clause shall receive the same construction as they would severally receive in a mortgage of real property expressed to be made in pursuance of "The Act respecting Short Forms of Mortgages" (R.S.O., 1897, chapter 126), with such qualifications in the forms in column 2, Schedule B., of the said Act as may be necessary for the application of the same to the leasehold interest conveyed by this mortgage.

Provided that on default of payment of any portion of the money hereby secured the whole principal and interest hereby secured shall become payable. And it is further agreed that on default in payment of any instalment of interest, such interest shall at once become principal and bear interest at the rate aforesaid, which interest shall be payable from day to day, and shall itself bear interest at the rate aforesaid if not paid prior to the next gale day, it being agreed that all interest, as well that upon principal as upon interest, is to be compounded at each day mentioned for payment of interest.

The mortgagor covenants with the mortgagee that he will pay the rents and perform and keep the covenants in the hereinafore recited indenture of lease and in any renewal or substituted lease during the continuance of this indenture, and that upon default being made in any payment or covenant the mortgagee shall immediately (if he shall see fit) pay or perform

the same, and any payment so made shall become a charge on the said lands and terms.

That in the event of non-payment of the said principal moneys at the time or times herein provided, or within one month thereafter, with interest for the said month, then the mortgagor shall not require the mortgagee to accept payment of said principal moneys without paying a bonus equal to three months' interest in advance on the said principal moneys, such bonus to be in lieu of notice of intention to pay, the right to give or receive which notice is hereby waived (c).

The mortgagor agrees that neither the execution nor registration of this mortgage shall bind the mortgagee to advance the moneys hereby secured, or having advanced part to advance the balance thereof.

And it is hereby declared that in case the mortgagee satisfies any charge on the lands the amount paid shall be payable forthwith with interest, and in default the powers of sale hereby given shall be exercisable.

And the mortgagor covenants with the mortgagee that he will at all times so long as any moneys remain due upon this security join and concur with the mortgagee in all acts and deeds necessary to procure the renewal from time to time of the subsisting lease of the aforesaid lands with the mortgagee, and will pay all costs, charges and expenses incident to or occasioned by such renewal, and if the mortgagor shall refuse or neglect to join and concur in any such acts as aforesaid and to pay the costs, charges and expenses incident to and payable upon such renewal then, and as often as it shall so happen, the mortgagee may effect such renewal or renewals from time to time in his own name or otherwise, and it is hereby agreed that all such premiums, sums of money, costs, charges and expenses paid by the mortgagee shall stand charged upon the said lands with interest at the rate aforesaid in addition to all other moneys then secured thereon.

And the mortgagor covenants with the mortgagee that in case of default in any of the payments hereinbefore provided for the mortgagee may, with or without the concurrence of any

(c) See note (g) on p. 499.

other person, make such arrangements for the repairing, finishing and putting in order any buildings or other improvements on the mortgaged lands and for inspecting, taking care of, leasing, collecting the rents of and managing generally the mortgaged property as he may deem expedient, and all reasonable costs, charges and expenses, including allowance for the time and services of any person appointed for the above purposes, shall be forthwith payable to the mortgagee, and shall be a charge upon the mortgaged property.

And it is hereby expressly declared and agreed that the expressions "the mortgagor" and "the mortgagee," wherever used in this indenture shall, where the context allows, enure to the benefit of and be binding not only on the parties hereto but also on their respective heirs, executors, administrators and assigns.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### CONSENT OF LESSOR

#### TO MORTGAGE OF LEASEHOLD.

I, —, the lessor of the within recited lease named, hereby consent to the within mortgage to —, and also hereby waive in favour of the said —, his heirs, executors, administrators and assigns, all past causes of forfeiture in the said lease contained, and I agree for myself, my heirs, executors, administrators and assigns, with the said —, his heirs, executors, administrators and assigns, that in case of default of the within mortgage I will consent to the powers and rights by the within mortgage in such case provided, reserving however the right, on proper and substantial grounds, to withhold any consent to an assignment of the said lease; and provided also that this shall be deemed to operate as a consent or waiver in respect of the said mortgage only.

Dated this — day of — 19—.

*[Signature of lessor.]*

## MORTGAGE OF A LEGACY.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the mortgagor, of the first part, and — of —, hereinafter called the mortgagee, of the second part.

WITNESSETH that, in consideration of — dollars, now paid by the mortgagee to the mortgagor (the receipt whereof is hereby acknowledged) the mortgagor hereby assigns unto the mortgagee a certain legacy of — dollars bequeathed to the mortgagor by the will of —, late of —, which will is dated the — day of — 19—, and was proved in the Surrogate Court of the county of — on the — day of — 19— by — and —, the executors thereof, and also all moneys due or to become due and payable in respect of the said legacy, together with full power to demand, sue for, recover, receive and give effectual discharges for the said legacy and moneys in the name of the mortgagor, his executors or administrators, or otherwise to hold the said legacy and premises hereby assigned unto the mortgagee, his executors, administrators and assigns, for his and their absolute use and benefit.

To hold the said legacy unto the mortgagee upon trust to receive the same, and out of it pay firstly, the expenses attending the payment thereof, including the expenses attending the realizing upon this security and, secondly, to retain the said sum of — dollars and the interest thereon, or so much thereof, if any, as shall then remain due, and to pay the surplus, if any, of the said legacy to the mortgagor.

And the mortgagor for himself, his executors and administrators, hereby covenants with the mortgagee, his executors, administrators and assigns, that he will on the — day of — 19— pay the said sum of — dollars with interest thereon at the rate of — per cent per annum computed from the date hereof, and that if the estate of the said — is inadequate to pay the said legacy in full that the mortgagee may accept such sum of money in satisfaction of the said legacy as to the mortgagee may seem proper, and also that if the amount realized upon the said legacy be insufficient to satisfy the amount hereby secured and interest thereon and costs of obtaining



payment of the said legacy that he, the mortgagor, will pay all such deficiency.

And the mortgagor, for himself, his executors and administrators, covenants with the mortgagee, his executors, administrators and assigns, that he has done no act by which the said legacy has been charged or encumbered, and that the said sum of — dollars is still due and owing to him from the estate of the said testator,— [name of testator].

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### MORTGAGE OF A MORTGAGE

#### BY WAY OF ASSIGNMENT.

THIS INDENTURE made the — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the assignor, of the first part, and — of the — of — in the county of —, —, hereinafter called the assignee, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, — of — mortgaged the lands therein and hereinafter described to the assignor, his heirs and assigns, upon the terms and conditions in the said mortgage contained, and there is now owing upon the said mortgage the sum of — dollars and interest thereon at the rate of — per cent per annum from the — day of — 19—.

AND WHEREAS the assignor has applied to the assignee for a loan of — dollars on the security of the said mortgage, which the assignee has agreed to make upon the terms and conditions hereinafter expressed.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of — dollars now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged) the assignor doth hereby assign and set over unto the assignee, his executors, administrators and assigns, all that the said in part recited mortgage and also the sum of — dollars now owing as aforesaid, together with all moneys that may hereafter become due or owing in respect of the said mortgage, and the

full benefit of all powers and of all covenants and provisos contained in the said mortgage. And the assignor doth hereby grant and convey unto the assignee, his heirs and assigns, the said mortgaged lands, viz: all that certain parcel of land, situate, etc.

To have and to hold the said mortgage and all moneys arising in respect thereof and to accrue thereon, and also the said lands thereby mortgaged, to the use of the assignee, his heirs, executors, administrators and assigns, forever, but subject to the terms contained in the said mortgage.

Provided that if the assignor shall pay to the assignee, his executors, administrators or assigns, the sum of — dollars on the — day of — 19—, together with interest thereon at the rate of — per cent per annum till the said sum is fully paid, then the assignee, his executors, administrators or assigns, shall, at the request and cost of the assignor, re-assign the said mortgage to the assignor.

And the assignor for himself, his heirs, executors, administrators and assigns, hereby covenants with the assignee, his heirs, executors, administrators and assigns, that he will pay the said sum of — dollars on the — day of — 19—, together with interest at the rate of — per cent per annum as well after as before the maturity of this mortgage until the said sum is fully paid, the said interest to become due and be paid on —, the first payment of interest to be made on —, computed from the date hereof; and that the said mortgage hereby assigned is a good and valid security; and that the said sum of — dollars is now owing under and by virtue of the said mortgage; and that he has not done or permitted any act, matter or thing whereby the said mortgage has been released or discharged, either partly or in entirety, and that he will, upon request, do, perform and execute every act necessary to enforce the full performance of the covenants and other matters contained therein.

And it is declared and agreed that upon payment of the moneys secured by the said mortgage, the assignee, his executors, administrators and assigns, shall not be a necessary party or parties to such discharge.

Provided it shall not be incumbent upon the assignee to sue for or require payment of the moneys secured by the said mort-

gage, or any part thereof, unless he shall think fit so to do, nor shall he be responsible for any loss which may arise by reason of his omission to enforce or delay in enforcing any of the said securities for the said moneys.

Provided that the assignee, his heirs, executors administrators and assigns, on default of payment for [one] month may, on giving — notice to the assignor, his heirs, executors, administrators and assigns, sell, assign and convey the said mortgage, and all the interest of the assignor in the mortgaged lands, and also the mortgage debt assigned hereby, either for cash or credit or partly for cash and partly for credit, and either by public auction or private contract; and as such attorney of the assignor as aforesaid, or otherwise, may exercise the power of sale or other powers in the said mortgage, and on sale of the said lands may make proper conveyances thereof, and apply the proceeds from such sale in the first place in payment of the money due hereupon for interest and costs.

Provided that on default of payment for [two] months the above powers may be exercised without giving any notice.

Provided that in default of the payment of the interest or any other money hereby secured the principal hereby secured shall become payable.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### MORTGAGE OF A MORTGAGE.

*(Another form—to a company.)*

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Mortgages, between — of —, hereinafter called the mortgagor, of the first part, and the — Company, hereinafter called the mortgagee, of the second part.

WHEREAS by indenture of mortgage dated the — day of — 19—, and made between X.Y. of —, of the first part, and the mortgagor above named of the second part, the said X.Y. did grant and mortgage unto the mortgagor above named the lands hereinafter described, upon the terms and conditions in the said mortgage contained.

AND WHEREAS there is now due on the said mortgage the sum of — dollars with interest thereon from the — day of — 19—.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the mortgagee to the mortgagor (the receipt whereof is hereby acknowledged) the mortgagor doth grant and mortgage unto the mortgagee, its successors and assigns, forever, all that certain parcel of land, situate, etc. Subject nevertheless to the equity of redemption on payment by the original mortgagor in the said mortgage of the principal money and interest therein mentioned. And the mortgagor doth hereby grant, bargain, sell, assign and transfer to the mortgagee, its successors and assigns, as well the land and premises in the said mortgage mentioned as all the principal money and interest due or to accrue thereon, together with all the rights and powers of him, the mortgagor, therein, and the benefit of all covenants therein. To have and to hold, take and receive the same to the use of the mortgagee, its successors and assigns, absolutely.

Provided this mortgage to be void on payment of — dollars of lawful money of Canada, with interest thereon at the rate of — per cent per annum as follows:—, interest on all principal remaining unpaid at the rate aforesaid to be paid [half] yearly on the first days of — and — in each year until the said principal sum is fully paid, and after as well as before the maturity of this mortgage at the said rate, and principal and interest to be paid in gold if required by the mortgagee. The first of the said instalments of interest to become payable on the first day of — 19—, and interest on overdue interest to be paid as hereinafter provided.

And it is further agreed that in default in payment of any instalment of interest such interest shall at once become principal and bear interest at the rate aforesaid, which interest shall be payable from day to day, and shall itself bear interest at the rate aforesaid if not paid prior to the next gale day, it being agreed that all interest, as well that upon principal as upon interest, is to be compounded at each day mentioned for payment of interest, together with all fines imposed by the mortgagee on the mortgagor on account of default in payment, according to the mortgagee's rules, and taxes and performance of statute labour,

provided that in default of payment for two months of any portion of the money hereby secured, the whole principal and interest hereby secured shall become payable.

The mortgagor covenants with the mortgagee that the mortgagor will pay the mortgage money and interest and observe the above provisoes. And that the principal sum of — dollars, together with interest from the — day of — 19—, is due and owing under and by virtue of the said mortgage; and that the said mortgage is a good, valid and subsisting security. And the mortgagor hereby authorizes the mortgagee on payment of the said mortgage in full to execute a discharge of the said mortgage so assigned without the consent of him the mortgagor, and he hereby declares that any discharge executed by the mortgagee upon payment to him in full of the said mortgage shall be as valid and binding as if the mortgagor had executed such discharge.

And the mortgagor covenants with the mortgagee that he will execute such further assurances of the said lands as may be requisite; and that he will insure the buildings on the said lands to the amount of not less than — dollars.

Provided that the mortgagee, on default of payment for — months, may, without any notice, absolutely sell, assign and convey all the interest of the mortgagor in the said mortgaged premises, and also the mortgage debt assigned hereby, either for cash or credit, or partly for cash, and either by public auction or private contract; and may exercise the power of sale or other powers in the said mortgage, and on a sale of said land may make proper conveyances thereof, and apply the proceeds from such sale in the first place in payment of money due hereupon for instalments, fines and costs.

The foregoing covenants, provisoes and powers shall bind the heirs, executors, administrators and assigns of the mortgagor, and may be enforced and exercised by the successors and assigns of the mortgagee.

IN WITNESS, etc.

SIGNED, SEALED, etc.

# MORTGAGE SALES.

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## NOTICE OF SALE.

WHERE POWER IN MORTGAGE TO SELL FORTHWITH.

To [names of parties entitled to notice (a)].

You and each and every one of you are hereby required to take notice that default has been made in payment of the [interest, or, principal] moneys secured by a certain indenture of mortgage dated the — day of — 19— made by —, the mortgagor, of the first part and — of —, the mortgagee, of the second part upon the following lands, namely, all and singular that certain parcel of land situate, etc., and that there is now overdue the [principal money and ] interest from the — day of — 19—.

And take notice (b) that the said mortgagee [or other person exercising the power of sale] will proceed forthwith to exercise the powers of entering upon, leasing or selling the mortgaged lands described in the said mortgage.

Dated at — this — day of — 19—.

[Signature of mortgagee or assignee  
exercising power of sale (c).]

(a) An execution creditor whose writ is in the sheriff's hands at the time of giving notice of sale has been said to be an "assign entitled to notice," *Re Abbott and Metcalfe*, 20 O.R. 299.

(b) It is not necessary to demand the money in the notice of sale, or to fix or mention any time in the notice for doing anything required to be done, but if any time is mentioned it should be forthwith, in order to prevent the notice from operating as a stay.

(c) In *Fenwick v. Whitwam*, 37 C.L.J. 121; 1 Ont. L.R. 24; it was held that a notice of sale signed by the solicitor for the mortgagee was sufficient, but it has been questioned whether this case is good law, on the ground that since the mortgagee is the donee of a power his own name and not that of his solicitor must be signed in the notice, the mortgagee having no authority to delegate his power. The mortgagee or assignee may, however, authorize another person (e.g., his solicitor) to sign his (the mortgagee's) name. This, then, is virtually the signature of the mortgagee himself.

## NOTICE OF SALE

WHERE NO POWER TO SELL FORTHWITH.

(R.S.O., c. 121, s. 21.)

To [names of parties entitled to notice (a)].

I HEREBY require you on or before the — day of — 19— [a day not less than two calendar months from the service of the notice and not less than six months after the default] to pay off the principal money and interest secured by a certain indenture dated the — day of — 19—, and expressed to be made between [here state parties and describe mortgaged property] which said mortgage was registered on the — day of — 19—, [and if the mortgage has been assigned, add, and has since become the property of the undersigned].

And I hereby give you notice that the amount due on the said mortgage for principal, interest and costs respectively, is as follows [set the same forth].

And unless the said principal money and interest and costs are paid on or before the said — day of — 19—, I shall sell the property comprised in the said indenture under the authority of the Act entitled An Act respecting Mortgages of Real Estate.

Dated at — the — day of — 19—.

[Signature of person exercising power of sale (c).]

## ENDORSEMENT OF SERVICE

OF NOTICE OF SALE.

SERVED a true copy of this notice on — personally at — on the — day of — 19—.

[or, SERVED a true copy of this notice on — by leaving the same at his usual [or, last known] place of residence within this Province, being —, on the — day of — 19— [or as the facts may be.]

## DECLARATION OF SERVICE

## OF NOTICE OF SALE.

IN THE MATTER of the sale of the lands described in the notice of sale hereto annexed, under powers of sale in a mortgage made by — to —.

COUNTY of —, } I, —, of the — of — in the  
To Wit: } county of —, —, do solemnly declare:

1. That I did on the — day of — 19— [personally] serve — with a true copy of the notice of exercising power of sale hereto annexed by delivering such copy to and leaving the same with him [or, with a grown-up person residing on the lands mentioned in the said notice, or as the case may be].

2. That to effect such service I necessarily travelled — miles.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act, 1893.

DECLARED, etc.

## ADVERTISEMENT OF SALE.

UNDER and by virtue of the powers contained in a certain mortgage, which will be produced at the time of sale, there will be offered for sale by public auction on — day the — day of — 19—, at the hour of — o'clock in the [fore] noon, at — in the [town] of —, by —, auctioneer, the following property, namely [*give short description of property, and describe buildings, improvements, etc.*].

Terms: — per cent of the purchase money to be paid down at the time of sale, balance to be paid [*state particulars of payment*].

For further particulars and conditions of sale apply to

[*Name and address of solicitor.*]

Dated at — the — day of — 19—.



### DECLARATION OF PUBLICATION OF ADVERTISEMENT.

IN THE MATTER of the sale of the lands described in the advertisement hereto annexed, under powers of sale in a mortgage made by — to —.

COUNTY of —, } I, —, of the — of — in the  
To Wit: } county of —, —, do solemnly declare:

That I have searched through the files of the newspaper called "—," published in the county of —, and find that the advertisement, a true copy of which is hereto annexed and marked "A," was published in the issues of the said paper on the following dates, namely:—.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED, etc.

### DECLARATION OF POSTING UP BILLS.

IN THE MATTER of the sale of the lands described in the notice of sale hereto annexed, under powers of sale in a mortgage made by — to —.

COUNTY of —, } I, —, of the — of — in the  
To Wit: } county of —, [bill poster], do solemnly  
declare:

1. That I did post up conspicuously copies of the advertisement of sale hereto annexed, to the number, at the places and on the days set out in the schedule hereunder:

Number posted.	Date.	Places where posted.

2. That the said places were, in my opinion, the most advantageous for giving publicity to the sale in this matter.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect

as if made under oath, and by virtue of The Canada Evidence Act, 1893.

DECLARED, etc.

### DECLARATION OF AUCTIONEER.

IN THE MATTER of the sale of the property described in the advertisement of sale hereto annexed, under powers of sale in a mortgage made by — to —.

COUNTY of —, } I, —, of the — of — in the  
                               } county of —, auctioneer, do solemnly  
 To Wit: } declare:

1. That at the time and place mentioned in the advertisement of sale hereto annexed marked "A," and under the conditions of sale hereto annexed marked "B," I offered for sale the lands described [as parcel number —] in the said advertisement of sale.

2. At the said sale the said lands were sold for the sum of \$—, as appears from the agreement to purchase hereto annexed marked "C."

3. The said sum was the highest sum bid for the said lands, and — [name of purchaser], whose name is subscribed to the said agreement to purchase, was declared by me to be the highest bidder for and became the purchaser of the said lands at the price of \$—.

[If no bid was made, insert instead of the two preceeding paragraphs: At the said sale no bid was made for the said lands, and I was therefore unable to sell the same.]

[If the bids were not sufficient, say: At the said sale the highest bid for the said lands was \$—, which sum being less than the reserved bid fixed by the vendor in accordance with the said conditions of sale, I was unable to sell the said lands.]

4. The said sale was conducted by me in a fair, open and proper manner, and according to the best of my skill and judgment.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act, 1893.

DECLARED, etc.

## NOTARIAL.

### THE BILLS OF EXCHANGE ACT.

(Can. 1890, c. 33.)

#### *Presentment of bill of exchange for acceptance.*

A bill must be presented to the drawee, or to some person authorized to accept or refuse acceptance on his behalf, at a reasonable hour on a business day and before the bill is overdue.

Where the bill is addressed to two or more drawees who are not partners, presentment must be made to all, unless one is authorized to accept for all, when presentment may be made to him only.

Where the drawee is dead, presentment may be made to his personal representative.

Where authorized by agreement or usage, presentment through the post office is sufficient. (Can. 1890, c. 33, s. 41, s-s. 1.)

Presentment is excused and a bill may be treated as dishonoured by non-acceptance:

- (a) Where the drawee is dead;
- (b) Where the drawee is a fictitious person;
- (c) Where the drawee is a person not having capacity to contract by bill;
- (d) Where, after the exercise of reasonable diligence, presentment cannot be effected;
- (e) Where, although the presentment has been irregular, acceptance has been refused on some other ground. (ib. s-s. 2.)

#### *Presentment of bills and notes for payment.*

1. If a place of payment is specified, the bill or note must be presented at such place: (ib. s. 45, s-s. 2, (d) (1).)

(a) If the place specified for payment is in a city, town or village, and no place therein is specified, the bill or note may

be presented at the drawee's, acceptor's or promissor's known place of business or known ordinary residence therein. If there is no such place of business or residence, it may be presented at the principal post office in such city, town or village. (ib. s-s. 7.)

2. Where no place of payment is specified:

(a) If the address of the drawee, acceptor or promissor is given, the bill or note must be presented there. (ib. s-s. 2, (d) (2).)

(b) If no address is given, the bill or note must be presented at the drawee's, acceptor's or promissor's place of business, if known, and if not, at his ordinary residence, if known. (ib. s-s. 2 (d) (3).)

(c) In any other case the bill or note may be presented to the drawee, acceptor or promissor wherever he can be found, or at his last known place of business or residence. (ib. s-s. 2, (d) (4).)

Where the bill or note is presented at the proper place, and after reasonable diligence no person authorized to pay or to receive payment can be found, no further presentment to the drawee, acceptor or promissor is required. (ib. s-s. 3.)

If the drawee, acceptor or promissor is dead and no place of payment is specified, presentment must be made to a personal representative, if such there is, and with the exercise of reasonable diligence he can be found. (ib. s-s. 5.)

Presentment for payment is dispensed with:

(a) Where, after the exercise of reasonable diligence, presentment, as required by the Act, cannot be effected. (The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment.)

(b) Where the drawee is a fictitious person.

(c) As regards the drawer, where the drawee or acceptor is not bound as between himself and the drawer to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented.

(d) As regards an endorser, where the bill was accepted or made for the accommodation of that endorser and he has no reason to expect that the bill will be paid if presented.

(e) By waiver of presentment, express or implied. (ib. s. 46, s-s. 2.)

*Notice of dishonour.*

Notice of protest is sufficiently given if addressed in due time to any party to the bill or note entitled to such notice, at his customary address or place of residence, or at the place at which such bill is dated, unless such party has under his signature designated another place, in which case notice is sufficiently given if addressed to him at that place.

A notice is deemed to have been duly served for all purposes when it is deposited in any post office, with the postage paid, at any time during the day on which the protest or presentment has been made, or on the following business or juridical day, and is not invalid by reason of the fact that the party to whom it is addressed is dead. (ib. s. 49, s-s. 4.)

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PROTEST OF BILL OF EXCHANGE

FOR NON-ACCEPTANCE.

ON THIS — day of —, in the year of Our Lord one thousand nine hundred and —, I, —, a notary public for the province of —, dwelling at the — of —, in the said province, at the request of — did exhibit the original bill of exchange, hereunto annexed, unto — [*the drawee, or, a clerk in the office of the drawee duly authorized to accept or refuse acceptance*] at — in the office of the said —, and there speaking to him did demand acceptance of the said bill, unto which demand he answered “—.”

WHEREFORE I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the drawee, drawer and endorser of the said bill, and all other parties thereto or therein concerned, for all exchange, re-exchange, costs, damages and interest present and to come, for want of acceptance of the said bill. All of which I attest by my signature and seal of office.

[*Seal.*]

—, Notary Public.

AND afterwards I, the aforesaid protesting notary public, did serve due notice in the form prescribed by law, of the fore-

going protest for non-acceptance of the bill thereby protested upon the drawee, drawer and endorser personally, by depositing such notices directed to the said — at —, —, at —, etc., in His Majesty's post office in the — of — on the — day of — 19—, and duly prepaying the postage thereon.

IN TESTIMONY whereof I have, on the last mentioned day and year, at the — of — aforesaid, signed these presents and affixed my seal of office.

[Seal.]

—, Notary Public.

### PROTEST OF BILL OF EXCHANGE.

#### PROTEST FOR NON-PAYMENT OF A BILL PAYABLE AT A STATED PLACE.

ON THIS — day of —, in the year of Our Lord one thousand nine hundred and —, I, —, a notary public for the province of —, dwelling at the — of —, in the said province, at the request of —, did exhibit the original bill of exchange, hereunto annexed, unto a clerk in the — at —, in the office of the said —, there being the stated place where the said bill is payable and there speaking to him did demand payment of the said bill, unto which demand he answered "—."

WHEREFORE I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the acceptor, drawer and endorser of the said bill, and all other parties thereto, or therein concerned, for all exchange, re-exchange, costs, damages and interest present and to come, for want of payment of the said bill. All of which I attest by my signature and seal of office.

[Seal.]

—, Notary Public.

AND afterwards I, the aforesaid protesting notary public, did serve due notice, in the form prescribed by law, of the foregoing protest for non-payment of the bill thereby protested upon [*names of acceptor, drawer and endorsers*], the acceptor, drawer and endorser personally, by depositing such notices directed to the said — at —, — at —, etc., in His Majesty's post office in the — of — on the — day of — 19—, and prepaying the postage thereon.

IN TESTIMONY whereof I have, on the last mentioned day and year, at the — of — aforesaid, signed these presents, and affixed my seal of office.

[Seal.]

—, Notary Public.

### PROTEST OF BILL OF EXCHANGE.

PROTEST FOR NON-PAYMENT OF A BILL PAYABLE GENERALLY.

ON THIS — day of —, in the year of Our Lord one thousand nine hundred and —, I, —, a notary public for the Province of —, dwelling at the — of —, in the said province, at the request of —, did exhibit the original bill of exchange, hereunto annexed, unto —, at —, [*If not presented to the acceptor personally, add, being the acceptor's last known place of business, or as the case may be,*] and there speaking to him did demand payment of the said bill, unto which demand he answered “—.”

WHEREFORE I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the acceptor, drawer and endorser of the said bill, and all other parties thereto or therein concerned, for all exchange, re-exchange, costs, damages and interest present and to come, for want of payment of the said bill. All of which I attest by my signature and seal of office.

[Seal.]

—, Notary Public.

AND afterwards I, the aforesaid protesting notary public, did serve due notice, in the form prescribed by law, of the foregoing protest for non-payment of the bill thereby protested upon [*names of acceptor, drawer and endorser*] the acceptor, drawer and endorser personally, by depositing such notice directed to the said — at —, — at —, etc., in His Majesty's post office in the — of —, on the — day of — 19—, and prepaying the postage thereon.

IN TESTIMONY whereof I have, on the last mentioned day and year, at the — of —, aforesaid, signed these presents, and affixed my seal of office.

[Seal.]

—, Notary Public.

## PROTEST OF NOTE.

PROTEST FOR NON-PAYMENT OF A PROMISSORY NOTE PAYABLE  
AT A STATED PLACE.

ON THIS — day of —, in the year of our Lord one thousand nine hundred and —, I, —, a notary public for the Province of —, dwelling at —, in the Province of —, at the request of —, did exhibit the original promissory note, hereunto annexed, unto a clerk of and in the office of — at —, being the stated place where the said note is payable, and there speaking to him did demand payment of the said note, unto which demand he answered “—.”

WHEREFORE, I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the promissor and endorser of the said note and all other parties thereto or therein concerned, for all exchange, re-exchange, costs, damages and interest present and to come, for want of payment of the said note. All of which I attest by my signature and official seal.

[Seal.]

—, Notary Public.

AND afterwards I, the aforesaid protesting notary public, did serve due notice in the form prescribed by law, of the foregoing protest for non-payment of the note, thereby protested upon [*names of promissor and endorsers*] the promissor and endorser, by depositing such notice directed to the said — at —, — at —, etc., in His Majesty's post office in —, on the — day of — 19—, and prepaying the postage thereon.

IN TESTIMONY whereof I have, on the last mentioned day and year, at — aforesaid, attested these presents by my signature and official seal.

[Seal.]

—, Notary Public.

## PROTEST OF NOTE.

PROTEST FOR NON-PAYMENT OF A PROMISSORY NOTE  
PAYABLE GENERALLY.

ON THIS — day of —, in the year of our Lord one thousand nine hundred and —, I, —, a notary public for



the Province of —, dwelling at —, in the Province of —, at the request of —, did exhibit the original promissory note, hereunto annexed, unto [*If not presented to the promissor personally, add: being the promissor's last known place of business, or, residence, or as the case may be*], at —, and there speaking to him did demand payment of the said note, unto which demand he answered "—."

WHEREFORE I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the promissor and endorser of the said note and all other parties thereto or therein concerned, for all exchange, re-exchange, costs, damages and interest present and to come, for want of payment of the said note. All of which I attest by my signature and official seal.

[Seal.]

—, Notary Public.

AND afterwards I, the aforesaid protesting notary public, did serve due notice, in the form prescribed by law, of the foregoing protest for non-payment of the note thereby protested upon [*names of promissor and endorsers*] the promissor and endorser, by depositing such notices directed to the said — at —, — at —, etc., in His Majesty's post office in —, on the — day of — 19—, and prepaying the postage thereon.

IN TESTIMONY whereof I have, on the last mentioned day and year, at — aforesaid, attested these presents by my signature and official seal.

[Seal.]

—, Notary Public.

## PROTEST OF CHEQUE

### FOR NON-PAYMENT.

ON THIS — day of —, in the year of our Lord one thousand nine hundred and —, I, —, a notary public for the province of —, dwelling at the — of —, in the said Province, at the request of — did exhibit the original cheque, hereunto annexed, unto a clerk in the — at —, in the office of the said —, there being the stated place where the said cheque is payable, and there speaking to him did demand payment of the said cheque, unto which demand he answered "—."

WHEREFORE I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the drawer and endorser of the said cheque, and all other parties thereto or therein concerned, for all exchange, re-exchange, costs, damages and interest present and to come, for want of payment of the said cheque. All of which I attest by my signature and seal of office.

[Seal.]

—, Notary Public.

AND afterwards I, the aforesaid protesting notary public, did serve due notice, in the form prescribed by law, of the foregoing protest for non-payment of the cheque thereby protested upon the drawer and endorser personally, by depositing such notices directed to the said — at —, — at —, etc., in His Majesty's post office in the — of —, on the — day of — 19—, and duly prepaying the postage thereon.

IN TESTIMONY whereof I have, on the last mentioned day and year, at the — of —, aforesaid, signed these presents, and affixed my seal of office.

[Seal.]

—, Notary Public.

### NOTICE OF PROTEST

#### OF CHEQUE OR BILL OF EXCHANGE.

To [name and address].

[Place and date.]

Sir: A.B.'s cheque [or, bill of exchange] for \$— dated at —, — day of — 19—, upon — in — favour, payable — after date and by you —, was this day, at the request of —, duly protested by me for non-payment [or, non-acceptance].

—, Notary Public.

### NOTICE OF PROTEST

#### OF PROMISSORY NOTE.

To [name and address].

[Place and date.]

Sir: A.B.'s promissory note for \$— dated at — the — day of — 19—, payable — after date to — or order, and by you —, was this day, at the request of —, protested by me for non-payment.

—, Notary Public.

## NOTARIAL CERTIFICATE

## OF TRUE COPY.

PROVINCE OF —, }  
To Wit: }

I A.B., a notary public for the province of —, by royal authority duly appointed, residing at the — of — in the said province, do certify that the paper writing hereto annexed is a true copy of a document produced and shown to me from the custody of C.D. and purporting to be —, made by —, and dated the — day of — 19—, the said copy having been compared by me with the said original document, an act whereof being requested I have granted under my notarial form and seal of office to serve and avail as occasion shall or may require.

A.B.,  
A Notary Public.

## NOTARIAL CERTIFICATE

## VERIFYING SIGNATURES.

PROVINCE OF —, }  
To Wit: }

I, A.B., of the — of — in the county of —, and province of —, a notary public for the said province, by royal authority duly appointed, do hereby certify that I was personally present on the — day of — 19—, at the — of — aforesaid, and did see C.D., the person named in the paper writing hereto annexed, duly execute, sign, seal and deliver the same as his act and deed, for the purposes therein mentioned, and that the name of C.D. thereto set and subscribed as the party executing the same is of the proper handwriting of the said C.D. therein named, and that the name E.F., subscribed as the witness thereto, is of the proper handwriting of E.F., and that the name A.B. is of the proper handwriting of me, this deponent, and that the said C.D. and E.F. are personally known to me.

IN TESTIMONY whereof I have hereto subscribed my name and affixed my seal of office at —, the — day of — 19—.

A.B.,  
A Notary Public.

## NOTICES.

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### NOTICE OF ASSIGNMENT OF DEBT.

BY ASSIGNEE TO DEBTOR.

TAKE NOTICE that by an agreement in writing dated the — day of — 19—, and made between A.B. of —, of the one part, and myself of the other part, the debt of — dollars owing by you to [the said] A.B. has been assigned to me [absolutely].

And take notice further that you are hereby required to pay to me, [or such person as I may appoint to receive the same,] the said debt of — dollars forthwith [or, on or before the — day of — 19—,] and in default thereof I shall pursue such remedies as are allowed by law for the recovery of the said debt.

Dated this — day of — 19—.

To C.D., [debtor] of —.

[Signature and address of assignee.]

---

### NOTICE OF ASSIGNMENT OF DEBT.

BY ASSIGNEE TO DEBTOR.

(Short form.)

To Mr. — [debtor].

I, the undersigned [assignee], of —, hereby give you notice that the debt of — dollars owing by you to — has been assigned to me, and I require you to pay the same to me.

Dated the — day of — 19—,

[Signature and address of assignee.]

## NOTICE OF ASSIGNMENT OF BOND DEBT.

BY ASSIGNEE TO OBLIGOR.

To Mr. — [obligor] of —.

I, the undersigned [assignee], of —, hereby give you notice that by an indenture dated the — day of — 19—, and made between — and —, the said — [creditor] assigned unto me absolutely the principal sum of — dollars and interest due from you to the said — [creditor] and secured by a bond under your hand and seal dated the — day of — 19—, and I require you in due course to pay such principal sum and all interest due and to become due thereon to me.

Dated the — day of — 19—.

[Signature and address of assignee.]

## NOTICE OF ASSIGNMENT OF INSURANCE POLICY.

BY ASSIGNEE TO COMPANY.

To the — Assurance Company.

I, [or, we, the undersigned, as solicitors for — of —] hereby give you notice that by an indenture dated the — day of — 19—, and made between — and —, the said [assignor] assigned to [me] the said [assignee] absolutely a policy of insurance effected by the said [assignor] on his own life for — dollars with you the said company, which policy is dated the — day of — 19—, and numbered — in your books, together with all moneys assured by or to become payable thereunder.

[A copy of the said indenture is attached hereto (a).]

Dated the — day of — 19—.

[Signature and address of assignee  
or his solicitors.]

(a) See note (p) on p. 185, and note (r) on p. 187.

## NOTICE OF ASSIGNMENT OF JUDGMENT.

BY ASSIGNEE OF JUDGMENT TO DEBTOR.

TAKE NOTICE that A.B., of —, has assigned to me a certain judgment recovered by him against you, in the — court of — on the — day of — 19—, for the sum of — dollars and costs, and I hereby give you notice to pay to me all moneys [or, the sum of — dollars remaining] due under the said judgment.

Dated this — day of — 19—.

To C.D. [debtor.]

[Signature and address of assignee.]

---

## NOTICE OF ASSIGNMENT OF JUDGMENT.

BY ASSIGNEE OF JUDGMENT TO SHERIFF.

TAKE NOTICE that by indenture of assignment dated the — day of — 19—, A.B. of — has assigned to me a certain judgment recovered by him against C. D. in the — court of — on the — day of — 19—, for the sum of — dollars and costs, upon which judgment writs of fieri facias have been issued and placed in your hands. And I hereby give you notice to pay to me all moneys realized under the said execution.

Dated the — day of — 19—.

[Signature and address of assignee.]

To the Sheriff of —.

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## NOTICE OF ASSIGNMENT OF LEGACY

BY ASSIGNEE TO EXECUTOR.

I hereby give you notice that by an assignment dated the — day of — 19—, — of —, a legatee for the sum of — dollars bequeathed to him by the will of —, deceased, and of which will you are executor, has assigned to me his said legacy absolutely [or, as collateral security for the payment of the sum of — dollars and interest at — per cent per annum] and I hereby request you to pay the said legacy to me as and when

it becomes payable, together with such interest, if any, as may have accrued at the date of payment.

Dated the — day of — 19—.

To —, executor of the will of — deceased.

[Signature and address of assignee.]

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#### NOTICE OF ASSIGNMENT OF MORTGAGE.

I hereby give you notice that a certain mortgage made by you to —, dated the — day of — 19— and registered on the — day of — 19— in the registry office for the county of —, securing the payment of — dollars and interest, has been assigned by the said — to [me] by indenture of assignment dated the — day of — 19—, and I hereby require you to pay all moneys now due and hereafter to become due upon the said mortgage to [me] and to no other person.

Dated the — day of — 19—.

To —, } [Signature and address of assignee of mortgage,  
[mortgagor.] } or his agent or solicitor.]

---

#### NOTICE OF ASSIGNMENT OF RENT.

To Mr. — [lessor or tenant] of —.

I hereby give you notice that by indenture dated the — day of — 19 —, made between A.B. of — and myself, the said A.B. from whom you hold the land [or, premises] no. —, — street, in the [town] of —, did assign to me the rent of the said land [or, premises] and I hereby require you to pay to me the rent now due or hereafter to become due in respect of the said land [or, premises].

Dated the — day of — 19—.

[Signature and address of assignee.]

## NOTICE OF INJURY.

"WORKMEN'S COMPENSATION FOR INJURIES ACT" (b).

To A.B. of [give employer's address], [or, To The — Company, or as the case may be].

TAKE NOTICE, that on the — day of — 19—, C.D. of [insert address of injured person] a workman in your employment sustained personal injury [add, of which he died, if such be the case] and that such injury was caused by [state shortly the cause of injury, e.g., the fall of a beam].

Dated at — the — day of — 19—.

Yours, etc.  
X.Y.

## NOTICE OF INTENTION TO PAY OFF MORTGAGE.

I hereby give you notice that at the expiration of — [months] from the date hereof I shall pay to you, or your executors, administrators or assigns, the principal money and interest due by me to you on the security of a certain indenture dated the — day of — 19—, made between [me], of the one part and [you], of the other part.

Dated at — this — day of — 19—.

To — [mortgagee]. — [mortgagor].

## NOTICE TO ATTORN.

BY MORTGAGEE TO TENANT.

To — [tenant].

You are hereby required to take notice that under and by virtue of a certain indenture of mortgage dated the — day of — 19—, made by A.B. to C.D., the said A.B. did grant and mortgage unto the said C.D. all that certain parcel of land situate, etc., to secure the sum of — dollars and interest, upon the terms and in the manner therein set out.

Now the said C.D. hereby notifies you by this service that [the instalments of principal and interest] secured by the said

(b) R.S.O., c. 160, s. 13.



mortgage are in arrear, and he, the said C.D., therefore demands of you that you attorn to him and pay to his agent for collecting such rents in this behalf all rent now due, or which may hereafter become due by you, in respect of such portion of the above property as may be occupied by you; and the said C.D. further notifies you to pay to the said A.B., his agents or attorneys, or any one claiming under them, any portion of the rent now due, or which may become due by you, on account of your tenancy; and the said C.D. will hold you responsible for any and all such sums as you may so pay, and will use this notice to fix you with any and all loss, costs or damages which he may sustain through your neglect or failure to comply with the terms hereof.

Dated at — the — day of — 19—.

[*Signature of mortgagee or his solicitor.*]

#### NOTICE TO TENANT

BY MORTGAGEE, TO PAY RENT.

I hereby give you notice that by indenture of mortgage dated the — day of — 19—, made between A.B., of the first part, and me, of the second part, the lands and premises now in your possession were mortgaged to me, [*or, made between A.B. of the first part and C.D. of the second part, the lands and premises now in your possession were mortgaged to the said C.D., and that the said mortgage has since been assigned to me by indenture dated the — day of — 19—,*] and that under the said indenture the principal money is still due, [*together with arrears of interest thereon,*] and I therefore require you to pay to me, or to such person as I may appoint, all rents now due and hereafter to become due in respect of the said premises until further notice from me, and after the date hereof to pay no rent in respect of the said premises to the said A.B. [*or, C.D.*] or to any person other than myself, otherwise I hold you liable for the said rent.

Dated at — this — day of — 19—.

To — [*tenant*].

— [*mortgagee*].

## NOTICE TO TENANT

BY VENDOR, TO PAY RENT TO PURCHASER.

I hereby give you notice that — of — has purchased the premises known as —, which you hold under a lease dated the — day of — 19—, and I hereby request you to pay to the said —, or to such person as he may appoint, all rent and arrears of rent now due and hereafter to become due from you in respect of the said premises.

Dated this — day of — 19—.

To — [tenant].

— [vendor].

## NOTICE TO TENANT

BY PURCHASER, TO PAY RENT TO HIM.

I hereby give you notice that by an indenture dated the — day of — 19—, made between —, of the first part, and me, of the second part, and registered in the registry office for the county of — on the — day of — 19—, the premises now in your occupation were conveyed to me, and I hereby require you to pay to me, or to such person as I may appoint, all rent now due or hereafter to become due in respect of the said premises until further notice from me, and to pay no rent in respect of the said premises to any other person, and in default I shall pursue such remedies as are allowed by law for the recovery thereof.

Dated at — this — day of — 19—.

To — [tenant].

— [purchaser].

## NOTICE TO PURCHASER

TO COMPLETE CONTRACT OF SALE.

I hereby give you notice and require you to complete the contract of [or, agreement for] sale, dated the — day of — 19—, and made between myself of the one part and yourself of the other part, by which you agreed to purchase the lands situate at — for the sum of — dollars.

And I further give you notice that if you fail to carry out the said contract within — days from this date, I shall seek such relief as I may be entitled to by law.

Dated at — this — day of — 19—.

To — [purchaser]. — [vendor].

### NOTICE TO VENDOR

#### TO COMPLETE CONTRACT OF SALE.

I hereby give you notice and require you to complete the contract of [or, agreement for] sale, dated the — day of — 19—, made between you of the one part and me of the other part, by which you agreed to sell the lands situate at — for the sum of — dollars.

And I further give you notice that if you fail to carry out the said contract within — days from this date I shall seek such relief as I may be entitled to by law.

Dated at — this — day of — 19—.

To — [vendor]. — [purchaser].

### CAUTION

#### BY EXECUTORS OR ADMINISTRATORS, UNDER THE DEVOLUTION OF ESTATES ACT.

(R.S.O., c. 127, s. 13, s-s. 2.)

We, A. B. and C. D., executors of [or, administrators with the will annexed of, or, administrators of] — who died on or about the — day of — 19—, do hereby certify that it may be necessary for us under our powers and in fulfillment of our duties as executors [or, administrators] to sell the real estate of the said —, or part thereof, [or the caution may specify any particular parts or parcels] and of this all persons concerned are required to take notice.

Dated at — the — day of — 19—.

[Signature of executors or administrators.]

[For Affidavit of Execution, use form on p. 9.]

## CERTIFICATE OF WITHDRAWAL OF CAUTION

BY EXECUTORS OR ADMINISTRATORS, UNDER THE  
DEVOLUTION OF ESTATES ACT.

(R.S.O., c. 127, s. 13, s-s. 4.)

WE, — and —, executors [or, administrators] of [name of deceased] late of —, deceased, do hereby withdraw the caution heretofore registered with respect to the real estate of the said —, [or as the case may be].

Dated at — the — day of — 19—.

[Signatures of executors or administrators.]

## AFFIDAVIT OF EXECUTION

OF CERTIFICATE OF WITHDRAWAL OF CAUTION.

(R.S.O., c. 127, s. 13, s-s. 5.)

COUNTY OF —, } I, G.H., of the — of —, —, make  
To Wit: } oath and say:

1. I am well acquainted with A.B. and C.D. named in the above certificate.

2. That I was present and did see the said certificate signed by the said A.B. and C.D.

3. That I am a subscribing witness to the said certificate and I believe the said A.B. and C.D. to be the persons who registered the caution referred to in the said certificate.

SWORN, etc.

# PARTNERSHIP.

## PARTNERSHIP AGREEMENT

### BETWEEN TWO PERSONS.

THIS INDENTURE made the — day of — 19—, between A.B. of — [*one partner*], of the one part, and C.D. of — [*other partner*], of the other part.

WITNESSETH that the said A.B. and C.D. hereby mutually covenant and agree to become and be partners in the trade or business of —, upon and subject to the terms, conditions and stipulations expressed in the following articles, that is to say:

#### *Duration of partnership (a).*

1. The partnership shall commence on the — of — 19—, and continue for the term of — years from that date, unless it shall be previously determined under the provisions hereinafter contained.

#### *Name of firm.*

2. The firm name and style of the partnership shall be "— & Co.," and neither partner shall enter into any engagement on behalf of the firm except in the firm name.

#### *Place of business.*

3. The business shall be carried on at number —, — street, in the [town] of —, [held by the said A.B. and C.D. under a lease dated the — day of — 19—, at the yearly rent of — dollars, *or*, held by the said A.B. in fee simple, *(b) or as the case may be*], or at such other place as shall from time to time be agreed on.

#### *Bankers.*

4. The bank of the firm shall be the — Bank at —, or such other bank as shall be from time to time agreed on.

(a) If the time for which a partnership is to last is not limited to a definite period, either expressly or by necessary implication, the partnership may be dissolved at the will of any partner.

(b) See Appendix C, on Dower.

*Deposit of moneys.*

5. All moneys from time to time received on account of the partnership, not required for current expenses, shall be paid immediately into the bank for the time being of the partnership, in the same drafts, cheques, bills or cash in which they are received, and all disbursements on account of the partnership shall be made by cheque on such bank.

*Partners may draw cheques and endorse.*

6. Each partner may draw cheques in the name of the firm, and may sign, endorse and accept in the name of the firm any bills, notes, cheques, drafts or other instruments, for the purposes of the business of the firm only.

*Capital.*

7. The capital shall consist of — dollars, brought in by the partners in equal shares [*or*, in the shares or proportions following, namely, —,] and made up as follows, that is to say: the property hereinbefore mentioned held by the said A.B. shall be deemed to be of the value of — dollars; the implements and plant now used in the said business shall be deemed to be of the value of — dollars, [and to be brought in by the partners in equal shares, *or*, in the shares aforesaid], and the further sum of — dollars shall be paid to the credit of the firm by the said partners in equal shares [*or*, in the shares aforesaid] immediately after the execution of these presents.

*Increase of capital.*

8. If, at any times hereafter, further capital is required for carrying on the business, and the partners determine to increase the capital, such additional capital shall be advanced by the partners in equal shares [*or*, in such proportions as they respectively contributed to the original capital of the firm].

*Advances by partners.*

9. If either partner shall at any time, with the consent of the other partner, advance any money to the firm beyond the amount of the capital hereby agreed to be brought in by him, or if he shall leave any part of his profits in the business, the same shall be a debt due to him from the firm, and may be with-

drawn by him at any time on one month's notice in writing, and shall in the meantime bear interest at the rate of — per cent per annum from the time of such advance.

*Payment to one partner for rent.*

10. The said [C.D.] shall be allowed by the partnership the yearly sum of — dollars by way of rent for the said property in — street aforesaid, so long as the said business shall be carried on therein; but the said property shall continue the sole property of the said [C.D.], subject only to be used for the purposes of the partnership business.

*Profits.*

11. The profits of the business shall belong to the partners in equal shares [or, as to — parts thereof to the said A.B., and as to the remaining — part thereof to the said C.D.].

*Expenses and losses.*

12. The rent of the partnership premises, costs of repairs and alterations, and all taxes, payments for insurance, and other outgoings in respect thereof, the wages and salaries of all persons employed, and all expenses incurred in or about the said business, and all losses, if any, arising therein, shall be paid and borne out of the earnings of the business, or, in case of a deficiency, the losses shall be borne and paid by the partners in equal shares [or, in the proportion in which they are entitled to the profits of the business].

*Partners may draw monthly sums.*

13. Each partner may draw out of the partnership cash the monthly sum of — dollars on account of his share of the profits for the current year, and if on taking the yearly account it shall appear that the sums drawn out by him exceed his share of the profits for that year, he shall forthwith repay the excess.

*Books of account.*

14. Proper books of account shall be kept by the partners, and entries made therein of all such matters, transactions and things that are usually written and entered in books of account kept by persons engaged in concerns of a similar nature, and all books, securities, letters and other things belonging to or con-

cerning the partnership shall be kept at the office where the partnership business is being carried on, and each partner shall have free access at all times to inspect, examine and copy the same.

*Not to engage in other business.*

15. Both partners shall devote their whole time and attention to the partnership business, and neither of them shall, either alone or with any other person, either directly or indirectly, be engaged in any other business without the consent in writing of the other partner. [Provided however that the said A.B., may continue the — business at — wherein he is now concerned or engaged.] Each partner shall be faithful to the other in all partnership transactions, and shall at all times furnish to the other correct accounts and statements of and concerning all such transactions, without any concealment or suppression. Neither partner shall employ any money or effects belonging to the firm, or engage its credit except on account of the partnership business, and the bona fide carrying on of the same, or do or suffer anything whereby any such money or effects or his interest therein may be taken in execution or in any wise assigned, charged or incumbered for or in respect of his private debts.

*Not to endorse or become surety.*

16. Neither partner shall, without the consent of the other partner, make, draw, accept, sign or endorse any bill of exchange, promissory note or cheque, or contract any debt on account or in the name of the partnership, or employ any of the moneys or effects thereof, or become bail or surety for any person, or in any manner pledge the credit of the partnership, except in the usual and regular course of business. And it is hereby agreed between the parties hereto that any infraction of this provision shall be a ground for an immediate dissolution of the partnership as regards the partner so offending, and the other partner may forthwith declare the partnership dissolved by a written notice to the offending partner, left for him at the office of the firm.

*Not to make contracts exceeding a certain amount.*

17. No partner shall buy, order or contract for any article exceeding the value of — dollars without the previous con-



sent in writing of the other partner, and in case he does so the other partner shall have the option of taking the goods or articles so bought, ordered or contracted for, on behalf of the partnership, or of leaving them for the separate use of the partner so buying, ordering or contracting, to be paid for out of his own money.

*Not to give credit after notice to the contrary.*

18. Neither partner shall lend any money or deliver on credit any goods belonging to the firm to any person whom the other partner shall by notice in writing have forbidden him to trust, and if either partner shall do so he shall make good to the firm all loss arising thereby.

*Not to compound or discharge debts.*

19. Neither partner shall, without the consent in writing of the other partner, compound or discharge any debt owing to, or claim of, the firm without receiving the full amount thereof; and if either partner do so he shall, if required by the other partner, make good to the firm the full amount of such debt or claim.

*One partner may compound with debtor.*

[Or.] 19. In the event of any debtor of the partnership proposing to pay a composition to his creditors generally, each partner may, without consulting the other partner, agree to accept such composition, and execute on behalf of the firm the composition agreement and release to such debtor. Each partner is empowered to attend meetings of creditors of debtors to the partnership and vote on all matters brought up for consideration at such meetings, including the discharge of the debtor, provided that in no case shall either partner agree to accept a composition or to release a debtor of the partnership if the other partner shall object thereto.

*One partner to be manager at a salary.*

20. The said [C.D.] shall be the manager of the said business, and shall be paid for his services as manager the annual sum of — dollars by equal quarterly payments, the first payment to be made on the — day of — 19—, and the said sum of — dollars shall be payable before any division

of profits is made, and shall be in addition to the said [C.D.'s] share of the profits of the business.

*Hiring and discharging clerks and servants.*

21. Neither partner shall, without the consent of the other, hire any clerk or servant for the purposes of the firm, or discharge any clerk or servant in the employment of the firm except for flagrant misconduct.

*Bonds, notes, etc., to be signed by both partners.*

22. If there shall be occasion to give any bond, promissory note, bill of exchange or other security for the payment of any money on account of the partnership, except when the giving of such obligation shall, in the common course of business, be unavoidable, it shall be signed by both partners; and if either partner shall give such obligation, then, except in the case aforesaid, it shall be deemed to be given on his separate account, and shall be payable out of his separate estate, and he shall indemnify the other partner against the payment thereof.

*Trade secrets.*

23. Neither partner shall, during the continuance of the partnership, nor for — years after its determination, by any means, without the consent in writing of the other of them or of his executors or administrators, divulge to any person not a member of the firm any trade secret, method of manufacture or special information employed in or conducive to the partnership business, and which may come to his knowledge in the course of or by reason of this partnership.

*Partners to pay their private debts.*

24. Each partner shall punctually pay and discharge his present and future separate debts and engagements, and shall at all times keep indemnified the other partner, and the property of the partnership, against the same, and all actions, proceedings, claims and demands in respect thereof.

*Annual accounts.*

25. On the [31st] day of [December] in every year during the continuance of the partnership a general account shall be taken up to the said day of the stock-in-trade, credits, property

and effects, debts and liabilities of the said partnership, and every such annual account shall be entered in two books, and be signed in each such book by each partner, and after such signature each of them shall keep one of the said books, and shall be bound by such account, except that if any manifest error be found therein by either partner, and signified to the other within — months after it shall have been so signed by both of them, such error shall be rectified. Immediately after the signing of such account each partner may draw out his share of the profits as thereby appearing [subject, however, to the next article].

*Reserve fund.*

26. Immediately after taking such annual account, one-tenth part of the profits for the past year shall be set apart as a reserve fund to meet future losses and extraordinary expenses until the reserve fund shall amount to — dollars. The reserve shall be invested from time to time in securities agreed on by the partners, and the interest or income arising therefrom shall be deemed part of the profits of the said business, and be divided accordingly. If the reserve fund, after having been at its full amount, shall be diminished, one-tenth part of the annual profits shall again be added thereto until it reaches its full amount, and so on from time to time as occasion may require.

*Provisions for the admission of sons.*

27. Either partner may at any time nominate (c) a son, being of the age of twenty-one years, to succeed to his share in the partnership and the capital and future profits thereof; and upon signing a proper agreement or agreements respecting the admission of a new partner, every such son shall be and become a partner in the partnership concern in the room and in respect of the share and interest of his father therein, and be entitled thereto upon the same terms and conditions, and under and subject to the same advantages, regulations and agreements, in all respects and in the same manner as the father would have been entitled to if he had remained a partner in respect thereof, or as near thereto as the difference of circumstances will permit.

(c) As to power of a partner to nominate a successor, see *Byrne v. Reid* (1902), 2 Ch., 735; 39 C.L.J. 156.

*Power to determine partnership by notice.*

28. If at any time after the — day of — 19—, either partner shall be desirous of retiring from the partnership, he may give the other partner, or leave for him at the place where the business is then being carried on, a notice in writing of such his desire, and of his intention to determine the partnership so far as he is concerned, and the partnership shall, at the expiration of — months after the giving or leaving of such notice, determine accordingly.

*Partnership determinable if no profits.*

29. If, upon taking any such annual account as aforesaid, it shall appear that the partnership business has not been carried on during the then preceding year so as to produce profit, after allowing to each partner interest at the rate of — per cent per annum on the amount of his capital for the time being in the said business, either partner may, at any time within — days from the time of the taking of such account, give a notice in writing to the other partner of his desire that the partnership shall determine, or leave such notice at the place where the partnership business shall for the time being be carried on, and the partnership shall thereupon cease and determine.

*Partner may not assign his share.*

30. Neither partner shall, without the previous consent in writing of the other, assign his share or interest in the partnership.

*One partner may sell his share after giving other partner the option of purchasing.*

31. If either partner desire to sell his share and interest in the business he shall be at liberty to do so, and shall in such case first offer such share and interest to the other partner for the time being at a price to be named by the selling partner; and if the other partner shall not within — days accept such offer, then the selling partner shall be at liberty to sell his share and interest to any other person or persons at the same or a higher price, but shall not sell it to any other person at a less price unless and until it shall have been offered to the other partner for the time being at such less price, and that such last mentioned offer shall not have been accepted within — days.

*On one partner retiring, other may purchase share.*

[Or.] 31. Either partner may retire from the firm at the end of any year of the partnership term upon giving to the other partner, or leaving at the place where the business is then carried on, — days' previous notice in writing in that behalf. In such case the other partner shall be at liberty to purchase the share of the retiring partner in the property of the firm upon giving to him or leaving at the said place of business a notice in writing to that effect at any time before the determination of the partnership by reason of the first-mentioned notice.

*Retiring partner not to carry on competing business.*

32. In the event of either of the partners retiring as aforesaid, he shall not, during the remainder of the term of the said partnership, carry on or engage or be interested, directly or indirectly, in any other business competing or interfering with the business of the firm.

*On death or bankruptcy, either partner may purchase other's share.*

33. If either partner die or become bankrupt during the partnership term, the other partner may purchase the share of the deceased or bankrupt partner in the partnership property upon giving to his legal personal representative or trustee (as the case may require) a notice in writing to that effect at any time within — days from the death or bankruptcy, such purchase to take effect as from the day of such death or bankruptcy.

*Power to expel partner and purchase his share.*

34. If either partner shall commit a wilful breach of these articles, or act contrary to the good faith which ought to be observed between partners, or shall become incapable by reason of lunacy or otherwise to take his part in the management of the partnership business, then and in either of such cases the other partner may, by a notice in writing given to him, or (if he shall be found lunatic by inquisition) to his committee, expel him from the partnership as from the date of such notice; but so that if the expulsion shall be on account of a breach of duty the notice shall be given within — days after the discovery

thereof. And if any question shall arise whether a case has happened to authorize the exercise of this power, such question shall be referred to arbitration under the provision in that behalf hereinafter contained. The partner giving such notice of expulsion as aforesaid may, by the same or any other notice, to be given as aforesaid within — days from the date of the first notice, signify his intention to purchase the share of the expelled partner in the partnership property, in which case he shall be deemed the purchaser thereof accordingly, as from the date of such expulsion.

*Mode of ascertaining value of share.*

35. The price to be paid for the share of a deceased or bankrupt or retiring or expelled partner under the foregoing provisions shall be the net value of such share after providing for the debts and liabilities of the firm on the day of the determination of the partnership; and if the parties shall be unable to agree as to the value thereof the same shall be ascertained by arbitration in the manner hereinafter mentioned. The sum of money ascertained to be the value of the said share shall be paid by the purchaser to the vendor or vendors [in four equal instalments at the expiration of six, twelve, eighteen and twenty-four months respectively from the determination of the partnership, with interest thereon, *or*, on the instalments thereof for the time being remaining unpaid, at the rate of — per cent per annum, *or as may be agreed*], and shall be secured by the bond of the purchaser, who shall also by the same or another bond indemnify the vendor or vendors and the estate of the deceased or outgoing partner against the debts and liabilities of the firm, and the vendor or vendors shall, at the request and cost of the purchaser, do and execute all acts, deeds and things necessary or proper for vesting in him the share purchased by him as aforesaid, and for enabling him to get in the outstanding credits and effects of the firm.

*Good will.*

36. In ascertaining the sum of money to be paid for the purchase of a share of a deceased or outgoing partner as aforesaid nothing shall be allowed for the good will of the business [*or*, an allowance shall be made for the good will of the business as follows —].

*Winding up, on dissolution.*

37. Upon the determination of the partnership, if no other arrangement is made under the foregoing provisions, the property and effects of the firm shall be realized, and the proceeds applied firstly, in paying the debts and liabilities of the firm, secondly, in repaying to each partner the amount of capital brought in by him, with such interest, if any, as may be owing thereon, and the surplus, if any, shall be divided between the partners or their respective representatives in equal shares [*or*, in proportion to their respective shares in the profits of the business].

*Arbitration (d).*

38. If at any time during the continuance of the partnership, or after the dissolution or determination thereof, any dispute, difference or question shall arise between the partners or any of their representatives touching the partnership, or the accounts or transactions thereof, or the dissolution or winding up thereof, or the construction, meaning or effect of these presents, or anything herein contained, or the rights or liabilities of the partners or their representatives under these presents or otherwise in relation to the premises, then every such dispute, difference or question shall be referred to a single arbitrator, if the parties agree upon one, otherwise to three arbitrators, one to be appointed by each party to the reference and a third arbitrator to be appointed by the first-named arbitrators in writing before they enter upon the business of the reference; and if either party shall refuse or neglect to appoint an arbitrator within — days after the other party shall have appointed an arbitrator, and shall have served a written notice upon the first-mentioned party requiring such party to make such appointment, then the arbitrator first appointed shall, at the request of the party appointing him, proceed to hear and determine the matters in difference as if he were a single arbitrator appointed by both parties for the purpose, and the award or determination which shall be made by the said arbitrators or the majority of them, or by the said arbitrator, shall be final and binding upon the parties hereto, their executors, administrators and assigns.

(d) See forms on pp. 124, 128, 129.

*Amending partnership articles.*

39. If at any time during the continuance of this partnership the parties hereto shall deem it necessary or expedient to make any alteration in any article, clause, matter or thing herein contained for the more advantageous or satisfactory management of the partnership business, they may do so by a writing signed by them and endorsed on these articles, or entered in any of the partnership books, and all such alterations shall be adhered to and have the same effect as if they had been originally embodied in and formed a part of this indenture.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## PARTNERSHIP AGREEMENT

BETWEEN TWO PERSONS (e).

(Short form.)

THIS INDENTURE made the — day of — 19—, between — of — [one partner], of the one part, and — of — [other partner], of the other part.

WITNESSETH that the parties hereto covenant and agree to become partners in the business of —, upon and subject to the following conditions, namely:

1. The partnership shall commence on the — day — of 19—, and shall continue until determined by — months' notice given by one partner to the other, or left for him at the place of business of the partnership.

2. The name of the firm shall be "— & Co.," and the business shall be carried on at [describe the premises], or at such other place as the partners shall, from time to time, agree on.

3. The bank of the firm shall be the — Bank.

4. The capital of the firm shall be — dollars, and shall not be reduced without the consent of both partners. The said capital is at present represented by the stock-in-trade in and upon the said premises, which have been valued at — dollars, and the sum of — dollars cash standing to the credit of the

(e) For special clauses see preceding form.



firm at the said bank, and which stock-in-trade and cash belong to the partners in [equal] shares.

5. The profits and losses of the business shall be divided between the partners in [equal] shares.

6. Proper accounts shall be kept of all partnership transactions, and on the [31st] day of [December] in every year, or as soon afterwards as possible, a balance sheet shall be made out, showing the assets and liabilities of the firm, and what belongs and is due to each partner for capital and share of profits, and the same shall be signed by both partners, and when so signed shall be conclusive, except that if a manifest error shall be discovered therein within — days after the signature thereof such error shall be rectified.

7. Each partner may draw the monthly sum of — dollars out of the partnership cash on account of his share of profits for the current year; but if on taking the yearly account it shall appear that the monthly sums drawn out by either partner exceed his share of profits, he shall forthwith refund the excess.

8. Upon the determination of the partnership the assets of the partnership shall be realized, and applied, firstly, in payment of the debts and liabilities of the firm, and, secondly, in paying to each partner the amount of his capital in the business and, the surplus (if any) shall be divided between the partners, or their respective representatives, in equal shares [*or*, in proportion to their shares in the profit of the business].

9. All matters in difference in relation to the partnership affairs shall be referred to the arbitration (*f*) of a single arbitrator, if the parties agree upon one, otherwise to three arbitrators, one to be appointed by each party, and a third to be chosen by the two first-named before they enter upon the business of the arbitration, and the award and determination of such arbitrator or arbitrators, or any two of such three arbitrators, shall be binding upon the parties hereto and their respective executors, administrators and assigns.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(*f*) See clause in previous form, p. 578, and also pp. 124, 128, 129.

## PARTNERSHIP AGREEMENT.

WHERE ONE PARTNER FINDS THE WHOLE CAPITAL, AND  
THE PROFITS ARE DIVIDED UNEQUALLY.

THIS INDENTURE made the — day of — 19—, between  
A.B., of —, of the one part, and C.D., of —, of the other  
part.

WHEREAS the said A.B. has for some years carried on the  
business of — upon certain leasehold premises on — street  
in the [town] of —, held by him for a term of years, at the  
yearly rent of — dollars, and which term will expire on the  
— day of — 19—.

AND WHEREAS the said A.B. has agreed to admit the said  
C.D. into partnership with him upon the terms and conditions  
hereinafter expressed.

AND WHEREAS it is part of the arrangement that the plant  
and stock in-trade in and about the said premises shall be  
taken by the said partnership at the sum of — dollars, at  
which the same have been valued; and that the said A.B. shall  
pay into the — Bank to the partnership account the sum of  
— dollars, and that the said sum of — dollars and —  
dollars, making together the sum of — dollars, shall be con-  
sidered as capital brought in to the said business by the said  
A.B., and shall be credited to him in the partnership books  
accordingly. And whereas, in performance of the said agree-  
ment, the said A.B. has, before the execution of this indenture,  
paid the sum of — dollars into the said — Bank to the  
partnership account.

NOW THIS INDENTURE WITNESSETH that the said A.B. and  
C.D. hereby mutually covenant and agree to become and be  
partners in the trade or business of —, upon and subject to  
the terms, conditions and stipulations expressed in the following  
articles, that is to say:

1. The partnership shall continue for the term of — years  
from the date of these presents, unless it shall be previously  
determined under the provisions hereinafter contained.

2. The firm and style of the partnership shall be "— &  
Co."

3. The business shall be carried on at the premises — [*describe the premises*], and the firm shall be considered tenants of the said premises to the said A.B. at the yearly rent of — dollars, payable [half-yearly] on the — day of — and the — day of — in every year, and they shall pay all rates and taxes payable in respect of the said premises, and shall keep the same in good repair and insured against loss or damage by fire in the full insurable value thereof. The said tenancy may be determined by the firm on the — day of — in any year by — months' notice, but the said A.B. shall not determine the tenancy so long as the firm shall desire to carry on its business on the said premises.

4. The bank of the firm shall be the — Bank at —, or such other bank as shall be from time to time agreed on by the partners. Each partner shall be at liberty to draw cheques in the name of the firm.

5. The present capital of the partnership is the sum of — dollars, made up of the said plant and stock-in-trade, and the said sum of — dollars cash standing to the account of the firm at the said bank, the whole of which capital has been brought in by the said A.B. as hereinbefore mentioned.

6. The profits of the said business shall be divided between the partners as follows, namely: The said A.B. shall be entitled to [three equal fourth] parts thereof, and the said C.D. to the remaining [one equal fourth] part thereof. Whenever the [one-fourth] share of profits belonging to the said C.D. shall in any year exceed — dollars, he shall leave the excess in the business as so much capital brought in by him, until by that means his capital shall amount to — dollars.

7. Each partner shall receive interest at the rate of — per cent per annum on the amount of his capital for the time being in the said business, and such interest shall be allowed before any division of profits is made.

8. All expenses and losses incurred in carrying on the partnership business shall be paid out of the earnings, and, if they shall be insufficient, the deficiency shall be made up by the partners in the shares in which they are entitled to the profits of the business.

9 to 30 [see p. 570, articles 13 to 34].

31. If the said A.B. shall die during the continuance of the partnership, the said C.D. shall have the option of purchasing from his representatives the premises where the business is being carried on, for the then residue of the term of — years therein now vested in the said A.B., the price to be as follows, that is to say: If the said A.B. shall die on or before the — day of — next, then the price to be [\$1000]; but if he shall die at any subsequent period, then the price to fall and be reduced [\$50] at the expiration of every clear period of six months during which the said A.B. shall survive the said — day of — next, but no fall or reduction shall be made on account of any period less than six months, the purchaser to take subject to the payment of the yearly rent of — dollars reserved by the lease of the said premises, and to the observance and performance of the covenants and conditions in the said lease contained, and on the lessee's part to be observed and performed, provided, however, that the said C.D. shall signify his intention of becoming the purchaser of the said premises to the representative of the said A.B. within — months next after the decease of the said A.B., and the said C.D. shall, without requiring the production of the lessor's title, accept an assignment of the said premises for all the then residue of the said term, subject as aforesaid, and shall enter into the usual covenant for the payment of the said rent and the observance and performance of the said covenants and conditions, and for indemnifying the said representatives and their estate and effects, and also the estate and effects of the said A.B., therefrom, such assignment and covenant to be prepared by and at the expense of the said C.D.

32. If either partner shall die during the continuance of the said partnership, leaving a widow, child, or children him surviving, the surviving partner shall, during the remainder of the said term of — years hereby appointed for the continuance of the said partnership (if such surviving partner, and also the widow or a child or children of the deceased partner, shall so long live), pay to the executors or administrators of the deceased partner (in addition to any other moneys to which they will be entitled under the foregoing articles) the annual sum of — dollars by equal [quarterly] payments, the first of such payments to be

made at the end of — months next after the decease of the partner so dying as aforesaid.

33 and 34 [see pp. 578, 579, articles 38 and 39].

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## PARTNERSHIP AGREEMENT

### FOR A FIRM OF SOLICITORS (g).

THIS INDENTURE made the — day of — 19—, between A.B. of the — of —, [one of His Majesty's counsel learned in the law], of the first part, C.D. of the — of —, barrister-at-law, of the second part, and E.F. of the — of —, barrister-at-law, of the third part.

WHEREAS it has been agreed by the parties hereto to enter into partnership together as barristers, solicitors, proctors, conveyancers and notaries public.

NOW THIS INDENTURE WITNESSETH that in consideration of the mutual trust and confidence which the parties hereto respectively repose in each other, and the mutual and other agreements hereinafter contained, each of the said parties hereto doth hereby for himself, his heirs, executors and administrators, covenant, promise and agree to and with the others and each of them, jointly and severally, as follows:

1. The parties hereto shall and will continue and be partners in the practice and profession of barristers, solicitors, proctors, conveyancers and notaries public from the — day of — 19—, to the — day of — 19—, inclusive of both the said dates.

2. The said business shall be carried on at such offices as the said partners shall from time to time approve of, and under the name, style and firm of "— and —."

3. The members of the partnership shall be interested in and entitled to the assets and profits of the said business and liable for the debts thereof in the proportions following, viz: A.B. — tenths, C.D. — tenths, E.F. — tenths.

(g) For special clauses see pp. 569 to 579.

4. Should he so desire, W.B. son of the said A.B. shall, upon his being enrolled a solicitor of the [Supreme Court of Judicature for Ontario] be admitted into the said partnership and be interested in and entitled to the assets and profits of the said business and liable for the debts thereof in the proportion of [one-tenth] and thereafter the other members of the partnership shall be interested in and entitled to the assets and profits of the said business and liable for the debts thereof in the following proportion viz: *[set out the proportions]*.

5. The rent, taxes and other expenses which shall accrue due and payable in respect of the offices in which the business shall be carried on, together with all expenses of providing stationery and paying clerks and servants to be employed in the said partnership business, the expense of fees to counsel for advice and for travelling and all other expenses and disbursements whatsoever which may be incurred by the said partners or any of them in the course of the said business and all losses, costs and damages which may be incurred by the said partners or any of them on account of the said business shall be paid and borne out of the profits of the said business, except in respect of such loss or damage as shall happen through the wilful negligence or default or through the gross negligence of any of the said partners or some of them, in which case the same shall be made good by the partner or partners through whose neglect, default or negligence the same shall have happened, and shall be a first charge or lien on his or their share or shares of the said profits.

6. The said partners shall write or cause to be written out into books, which shall be kept for the purpose, entries of all moneys received and paid out, and of all business transacted by each of the said partners or their clerks, agents or servants as ought to be entered in the said books.

7. The said partners respectively shall devote their time, energy and ability to the management of the said business, unless they shall be prevented by sickness or other reasonable cause.

8. No one of the said partners shall carry on any business as barrister, solicitor, proctor, conveyancer or notary public for

his own private advantage, but such shall be carried on for the benefit of the partnership only.

9. No one of the said partners shall, without the consent of the others, compound, release, discharge or give time for the payment or performance of any debt or duty which shall be due or owing the said partnership, or shall make, draw, sign, endorse or accept any bill of exchange, promissory note or cheque, or shall contract any debt on account or in the name of the partnership, except in the usual and necessary course of business [but A.B. and C.D. only shall have power to draw cheques on the bank account of the firm, *or as may be agreed*].

10. A separate account, to be called the "Trust Account," shall be kept in some chartered bank, into which all and only clients money shall be paid.

11. No one of the said partners shall become bail or surety for any person without the written consent of the others, or commit any act by which the partnership moneys or assets shall be seized, attached or taken in execution.

12. All sums from time to time necessary for carrying on the said business shall be contributed by the parties hereto in the proportions in which they are interested in the profits of the business.

13. The said partnership shall be dissolved by the death of any of the partners, or by a notice given as follows: —.

14. In case the partnership shall be dissolved by such notice the partner or partners retiring thereunder shall not be entitled to or interested in any of the assets or effects of the partnership, which shall be the property of the remaining partners *[or as may be agreed]*.

IN WITNESS, etc.

SIGNED, SEALED, etc. \_\_\_\_\_

#### CERTIFICATE OF LIMITED PARTNERSHIP (h).

(R.S.O., c. 151, ss. 5, 6, and Schedule.)

WE, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of "—" as [state

(h) This certificate must be filed in the office of the county court of the county in which the principal place of business of the partnership is situate (R.S.O., c. 151. s. 7).

*general nature of business intended to be transacted*], which firm consists of A.B., residing usually at —, and C.D., residing usually at —, as general partners; and E.F., residing usually at —, and G.H., residing usually at —, as special partners. The said E.F. [*special partner*] having contributed \$—, and the said G.H. [*special partner*] \$—, to the capital stock of the said partnership.

The said partnership commenced [*or, is to commence*] on the — day of — 19— and terminates on the — day of — 19—.

Dated this — day of — 19—.

SIGNED in the presence of me,	} [Signed] A.B.
L. M.,	
Notary Public.	
	C.D.
	E.F.
	G. H.

# DECLARATION OF CO-PARTNERSHIP (i).

(R.S.O., c. 152, ss. 1, 2, and Sch. A.)

PROVINCE of Ontario,	} WE, — of [ <i>residence and occupation</i> ], and — of [ <i>residence and occupation</i> ], hereby certify:
County of —.	

1. That we have carried on and intend to carry on trade and business as — at — in partnership [with — of — and — of —, *as the case may be*], under the name and firm of —.

2. That the said partnership has subsisted since the — day of — 19—.

3. And that we [*or, I and the said — of —*] are and have been since the said day the only members of the said partnership.

WITNESS our hands at — this — day of — 19—.

WITNESS:

(i) The declaration must be filed within 6 months next after the formation of the partnership.



## DECLARATION (j).

WHERE ONLY ONE PERSON IN BUSINESS, BUT UNDER A FIRM NAME.

(R.S.O., c. 152, ss. 9, 10.)

PROVINCE

of Ontario,

County of —.

I, — [name in full], of —, — [occupation or addition], hereby certify:

1. That I am carrying on [or, intend to carry on] trade and business under the name, style and firm of "— & Co." [or as the case may be].

2. That I commenced to carry on [or, intend to commence] business under the said style of "— & Co." on the — day of — 19—.

3. That no person is associated with me in partnership.

WITNESS my hand at — the — day of — 19—.

WITNESS:

## EXTENSION OF PARTNERSHIP TERM.

TO BE ENDORSED ON OR ANNEXED TO THE AGREEMENT.

THIS INDENTURE made the — day of — 19—, between — of —, of the first part, — of —, of the second part, and — of —, of the third part.

WHEREAS the partnership entered into by the above-named parties under the within written [or, annexed] indenture will expire on the — day of — next; and whereas the said parties thereto have agreed to continue the said partnership for the further term of — years from the said — day of — in manner hereinafter expressed.

NOW THIS INDENTURE WITNESSETH that each of them, the said —, —, and —, doth hereby covenant with the others of them, and their executors and administrators, jointly and severally as follows: that they, the said —, —, and —, and the survivors of them, will remain and continue partners together in the within-mentioned trade or business for the further term of — years, from the said — day of — next,

(j) This declaration must be filed within six months of the time when such style is first used.

upon the same terms and conditions and subject to the same provisions and agreements as are in and by the within written [or, annexed] indenture expressed or contained in relation to the partnership thereby constituted, and so that all such terms, conditions, provisions and agreements shall remain in force and take effect in like manner as if the said partnership had been originally entered into for the full term of — years, instead of the said term of — years.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### ADMISSION OF NEW PARTNER

#### INTO AN EXISTING FIRM.

INDENTURE made this — day of — 19—, between — and —, constituting the firm of — & Co., of the first part, and — [*incoming partner*], of the second part.

WHEREAS by an indenture dated the — day of — 19—, made between the said parties of the first part, they became partners in the business of — for the term of — years, and have continued to be partners from the day of the date of the said indenture to the present time.

AND WHEREAS the said partners have agreed to admit the said [*incoming partner*] into partnership with them in the said business for the residue of the said term of — years, upon the terms and conditions hereinafter mentioned.

AND WHEREAS by the said indenture it was agreed that a valuation should be made of the whole of the said partnership property, and that the said [*incoming partner*] should pay unto the said parties of the first part one-third of the amount of such valuation, and be admitted to a proportionate share of the profits and losses of the said business. And whereas such valuation has been made accordingly, and the value of the said partnership property fixed at the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said recited agreement, and in consideration of the sum of — dollars, being one-third of the valuation of the said partnership property, paid by the said [*incoming partner*] to the said parties

of the first part, they, the said parties of the first part, admit the said [*incoming partner*] as a partner in the said business for the term of — years from the date hereof, which said business shall henceforth be carried on under the style or firm of — & Co., and the profits and losses of the said partnership shall be [equally] divided and borne by the said parties hereto, and the partnership business shall be carried on by them under and subject to the terms, covenants, provisoes and agreements contained in the said hereinbefore recited indenture of partnership of the — day of — 19—, as fully and effectually as if such terms were expressed and contained in these presents, and inserted with the name of the said [*incoming partner*] herein.

And it is hereby agreed between the parties hereto that, subject to the said terms, covenants, provisoes and agreements, the said partnership estate and effects shall be and remain unto the said three partners constituting the new firm of — & Co., their respective executors, administrators and assigns, in [equal] shares and proportions.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### NOTICE DETERMINING PARTNERSHIP

UNDER A POWER IN THE PARTNERSHIP AGREEMENT.

PURSUANT to the power for this purpose contained in certain articles of partnership, dated the — day of — 19—, and made between you of the one part, and me of the other part, I hereby give you notice of my wish and intention that the partnership now subsisting between us under the said articles shall cease and determine at the expiration of — months, computed from the date hereof.

WITNESS my hand this — day of — 19—.

To C. D. [*other partner*].

A. B. [*partner*].

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#### NOTICE OF DISSOLUTION

OF PARTNERSHIP.

NOTICE is hereby given that the partnership heretofore subsisting between us, the undersigned, as —, in the [town] of

—, has this day been dissolved by mutual consent. All debts owing to the said partnership are to be paid to — at — aforesaid, and all claims against the said partnership are to be presented to the said —, by whom the same will be settled.

Dated at — this — day of — 19—.

WITNESS:

—

## DECLARATION OF DISSOLUTION

### OF PARTNERSHIP.

(R.S.O., c. 152, Schedule B.)

PROVINCE of Ontario; } I, —, formerly a member of the  
County of —. } firm carrying on business as "—" at  
—, in the county of —, under the style of —, do hereby  
certify that the said partnership was on the — day of —  
19—, dissolved.

WITNESS my hand at — the — day of — 19—.

WITNESS:

—

## DISSOLUTION AGREEMENT.

### ONE PARTNER RETIRING, THE OTHERS CONTINUING THE BUSINESS.

THIS INDENTURE made the — day of — 19—, between A.B., of —, [*retiring partner*,] of the first part; C.D., of —, [*one of the continuing partners*,] of the second part; and E.F., of —, [*other continuing partner*,] of the third part.

WHEREAS by an indenture dated the — day of — 19—, and made between A. B., of —, C. D., of —, and E. F., of —, the said A. B., C. D. and E. F. agreed to carry on the business of —, in partnership, in equal shares, for the term of — years, subject to the covenants and provisions contained in the said indenture, and they have carried on the said business accordingly up to the day of the date of these presents.

AND WHEREAS a statement and account of the stock-in-trade, moneys, credits and effects, debts and liabilities of the said partnership have been this day made out, signed and settled

between the said A.B., C.D. and E.F., and the share of the said A.B. in the said stock-in-trade, moneys, credits and effects, after providing for the said debts and liabilities, has been valued at — dollars, and the share and interest of the said A.B. in the good will of the said business has been valued at the further sum of — dollars, making, with the sum of — dollars, the sum of — dollars.

AND WHEREAS it has been agreed between the parties hereto that the said A.B. shall retire from the said business, and shall accept the sum of — dollars in full satisfaction of his share and interest therein, and the good will thereof, and all the stock-in-trade, credits and effects belonging thereto; and it has been also agreed that the said sum of — dollars shall be paid by [four equal] instalments at the expiration of [six, twelve, eighteen and twenty-four] calendar months respectively, computed from the date of these presents, with interest on the said sum, or the instalments thereof for the time being remaining unpaid at the rate of — per cent per annum, computed from the date of these presents, and that the said C.D. and E.F. shall give and execute to the said A.B. their joint and several bond for securing the payment of the said sum of — dollars by such instalments and with such interest as aforesaid, and also for indemnifying him against the debts and liabilities of the said partnership.

AND WHEREAS in part pursuance of the said agreement the said C.D. and E.F. have given and executed to the said A.B. their joint and several bond, bearing even date with these presents, in the penal sum of — dollars, subject to a condition thereunder written for making the same void upon payment by the said C.D. or E.F., or one of them, to the said A.B. of the sum of — dollars by such instalments and with such interest as aforesaid, and upon the said C.D. and E.F. indemnifying the said A.B. and his estate and effects from and against the debts and liabilities of the said partnership, and all claims and demands in respect thereof.

NOW THIS INDENTURE WITNESSETH that in further pursuance of the said agreement in this behalf the said A.B., C.D., and E.F. do hereby dissolve the said partnership hitherto existing between them so far as regards the said A.B., and the said C.D. and E.F. do hereby mutually covenant that they, the said C.D.

and E.F., will henceforth be and remain partners in the said business in equal shares for the residue of the said term of — years upon and subject to the conditions and provisions contained in the said indenture dated the — day of — 19—, or as near thereto as the circumstances will permit.

And this indenture also witnesseth that in further pursuance of the said agreement in this behalf, and in consideration of the premises, the said A.B. doth hereby assign and release unto the said C.D. and E.F. all the share and interest of him, the said A.B., in the business, and the good will thereof, and the stock-in-trade, moneys, credits and effects belonging thereto, to hold the same unto the said C.D. and E.F. absolutely in equal shares; and the said A.B., so far as regards his share hereby assigned or expressed so to be, doth hereby appoint the said C.D. and E.F. and each of them, to be the true and lawful attorneys and attorney of him, the said A.B., to ask, demand, sue for, recover and receive of and from all persons liable to pay or deliver the same all the debts, sums of money and effects due and owing and belonging to the partnership hereby dissolved, or expressed so to be, and on payment or delivery thereof to give and execute receipts, releases and discharges for the same respectively, and on non-payment or non-delivery thereof, or any part thereof, to institute any action or other proceedings whatsoever for recovering and compelling payment thereof, and for the purposes aforesaid, or any of them, to use the name of the said A.B., and to do and perform all acts and things in relation to the premises as fully and effectually as he, the said A.B., might or could have done in his own proper person if these presents had not been executed.

And the said A.B. hereby covenants with the said C.D. and E.F., that he, the said A.B., will not, during his life, carry on the business of — in the [town] of —, or within — miles thereof.

And this indenture lastly witnesseth that, in consideration of the premises, the said A.B. doth hereby release the said C.D. and E.F., and each of them, and the said C.D. and E.F. do hereby release the said A.B., of and from all covenants and provisions contained in the said indenture [*articles of partnership*]

of the — day of — 19—, and all actions, claims and demands in relation to the late partnership.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### BOND

#### INDEMNIFYING RETIRING PARTNER AGAINST DEBTS OF PARTNERSHIP.

KNOW ALL MEN by these presents that we C.D. and E.F. [*obligors*] of — are held and firmly bound unto A.B. [*obligee*] of — in the penal sum of — dollars, to be paid to the said [*obligee*], or to his executors, administrators or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, our and each of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

WHEREAS the said A.B., C.D. and E.F. have carried on business in partnership as —, at —, and by indenture bearing even date herewith it is agreed that the said partnership shall be determined and dissolved from the — day of — 19—, and by the same indenture the said A.B. has assigned and released unto the said C.D. and E.F., their executors, administrators and assigns, all his interest in the said partnership business, and the moneys, debts, property and effects belonging or due to the said partnership; and whereas it has been agreed that the said C.D. and E.F. should execute and give to the said A.B. the above written obligation, with such condition for making it void as is hereinafter contained.

NOW THE CONDITION of the above written obligation is such that if the said C.D. and E.F. shall save harmless and keep indemnified the said A.B., and all his estate and effects, of and from all debts and liabilities whatsoever in respect of the said partnership business then the above written obligation shall be void, but otherwise shall remain in full force and virtue.

SIGNED, SEALED, etc.

## BOND

SECURING PAYMENT OF SHARE OF DECEASED PARTNER AND  
INDEMNIFYING AGAINST PARTNERSHIP LIABILITIES.

KNOW ALL MEN by these presents that we — and — [surviving partners] of — are held and firmly bound unto — and — [executors of deceased partner] of — in the penal sum of — dollars [double the amount of the share] to be paid to the said [executors] or to their executors, administrators or assigns, for which payment well and truly to be made we jointly [and severally (k)] bind ourselves, our and each of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals and dated this — day of — 19—.

WHEREAS the said [surviving partners] and [deceased partner] late of —, deceased, carried on business in partnership as —, under the style of "—," under articles of partnership contained in an indenture dated the — day of — 19—, and made between — and —, whereby it was provided (inter alia) that [state any provisions relating to the ascertainment of the share of deceased partner in the event of his death during the subsistence of the partnership, and for the payment of such share by instalments to be secured by the bond of the surviving partners, etc.].

AND WHEREAS the said [deceased partner] died on the — day of — 19—, during the subsistence of the said partnership, having by his will, dated the — day of — 19—, appointed the said [executors] his executors, to whom probate of the said will was granted on the — day of — 19—, by the [Surrogate Court of the county of —].

AND WHEREAS in accordance with the provisions of the said articles the net amount now owing to the said [executors] as such executors on account of the share and interest of the said [deceased partner] in the said partnership has been ascertained and agreed to be the sum of — dollars, as the said [surviving partners] and also the said [executors] having examined the accounts of the said partnership hereby admit.

(k) The amount due in respect of a deceased partner's share is, under ordinary circumstances, a debt due by the surviving partners to the executors or administrators of the deceased partner, and, in the absence of express stipulation, would probably be held to be due by them jointly and not jointly and severally.



AND WHEREAS it has been agreed that the said sum of — dollars shall be paid by the instalments and in the manner hereinafter mentioned, and that the said [*surviving partners*] should execute the above written obligation conditioned as is hereinafter expressed.

NOW THE CONDITION of this obligation is such that if the above bounden [*surviving partners*], or either of them, their or either of their heirs, executors or administrators, [or the partners or any of the partners for the time being in the said firm] shall, on the — day of — and — day of — in every year commencing with the — day of — [next], pay to the said [*executors*] or either of them or to the legal representatives or representative for the time being of the said [*deceased partner*], or as they or he shall from time to time direct, the sum of — dollars [*amount of half-yearly instalments*] together with interest on the said sum of — dollars [*amount of share*] or such part thereof as shall for the time being remain unpaid at the rate of — per cent per annum from the said — day of — [*date of partner's death*] until the whole of the said sum of — dollars [*amount of share*] [and interest] shall be fully paid; and also shall at all times save harmless and keep fully and effectually indemnified the heirs and personal representatives of the said [*deceased partner*] his estate and effects from all debts, liabilities, claims and demands which now are or may at any time hereafter be or become due to or be made by any person or persons from or against the said heirs or personal representatives of the said [*deceased partner*] his estate or effects by reason of the said [*deceased partner*] having been made a member of the said partnership (1), then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

SIGNED, SEALED, etc.

(1) The estate of a deceased partner is not liable to creditors for partnership debts contracted after the date of the partner's death.

# PATENTS.

## THE PATENT ACT (a)

(R.S.C., c. 61.)

### EXTRACTS FROM RULES OF THE PATENT OFFICE OF CANADA.

(Order in Council of February 23rd, 1904.)

#### *Documents and communications.*

All documents must be legibly and neatly written or printed on foolscap paper, thirteen inches long and eight wide, with an inner margin of one inch and a half wide. (Rule 4.)

All communications are to be addressed to "The Commissioner of Patents, Ottawa, Canada." (Rule 5.)

#### *Separate inventions.*

Two or more separate inventions cannot be claimed in one application, nor included in one patent. But if separate matters are represented to be so dependent on, and connected with, each other as to be necessarily taken together, to obtain the end sought for by the inventor, the Commissioner of Patents shall be the judge whether or not the pretensions of the applicant in such respect can be entertained. (Rule 10.)

#### *Assignments.*

An assignment (b) is to be accompanied by a copy (c) thereof; the original will be kept in the Patent Office, and the copy will be returned to the person sending it, with certificate of registration thereon. (Rule 19.)

#### *Drawings.*

All drawings must be in duplicate, and each sheet of tracing linen shall contain the following certificate at the bottom:

(a) The following statutes of Canada have amended "The Patent Act," viz: 1888, c. 18 (repealed 1897); 1890, c. 13; 1891, c. 33; 1892, c. 24; 1893, c. 34; 1897, c. 25; 1903, c. 46.

(b) This includes an assignment of invention before issue of patent.

(c) Although the Rule only requires a "copy" of an assignment, it is advisable to have a duplicate original executed, as this is required by the assignee.

"Certified to be the drawings referred to in the specification hereunto annexed," and signed by the inventor or his attorney (*d*), place, date and signature of two witnesses.

*Models.*

Need only be furnished when required by the Commissioner. (Rule 7.)

*Prosecution of application.*

Every application must be prosecuted and completed within one year from the date of filing, or last official action thereon, otherwise the case will be held to be abandoned. (Rule 9.)

With each application an extra full set of drawings must be supplied on double Bristol board, 8 by 13 inches, without writing on its face, merely the usual reference letters; no title, certificate, nor signatures; on the back of the sheet the name of the inventor and the title of the invention must be written in pencil.

The card board drawing should be rolled on a roller for transmission to the office, as folding will prevent its usefulness for photo-lithographing. (Rule 13.)

*Affidavits.*

Where oaths are made out of Canada, and before a judge, the seal of the court presided over by such judge should be affixed, and if before a notary public, his seal should be affixed to such oaths. (Rule of Patent Office.)

When the invention has been assigned before the issue of the patent [*see forms on p. 608*] the affidavit must be made by the inventor, not by the assignee. If the inventor is dead, the administrator or executor will make the affidavit that the person named as inventor was the inventor. (Rule of Patent Office.)

When an applicant for a patent resides in Canada, the affidavits required may be made before a judge, notary public, justice of the peace, mayor, commissioner for taking affidavits, etc. (Can. 1892, c. 24, s. 2.)

If the affidavit is made outside of Canada, it may be made before a consul, vice consul or consular agent, judge, notary public, mayor, or commissioner duly authorized, but not before a justice of the peace. (*ib.*)

(*d*) The attorney must sign the inventor's name.

## PETITION FOR PATENT

BY A SOLE INVENTOR.

To the Commissioner of Patents, Ottawa.

THE PETITION of —, of the — of —, in the province of —, sheweth:

That he hath invented (*e*) new and useful improvements in [machines for breaking stones, *or as the case may be*] not known or used by others before his invention thereof, and not being in public use or on sale, with his consent or allowance as such inventor, for more than one year previous to his application for a patent therefor in Canada.

Your petitioner, therefore, prays that a patent may be granted to him for the said invention, as set forth in the specification in duplicate relating thereto, and, for the purposes of The Patent Act, your petitioner elects his domicile in the — of —, in the province of —.

Dated at —, the — day of — 19—.

[Signature of inventor.]

## AFFIDAVIT

OF SOLE INVENTOR.

CANADA,  
Province of —, } I, —, of the — of — in the county  
County of —. } of —, —, make oath and say:

1. That I verily believe I am the inventor of the new and useful improvements in [machines for breaking stones, *or as the case may be*] described and claimed in the specification relating thereto, and for which I solicit a patent by my petition dated the — day of — 19—.

2. That the said improvements have not been patented to me, or to others with my knowledge or consent, in any country [or if previously patented in any other country, insert instead of the above the paragraph following:]

2. That the said improvements have not been patented to me, or to others with my knowledge or consent, except in the

(*e*) See Rule 10 on page 597.

following countries: *[Insert here the country or countries in which it has been so patented, giving the date and number of each patent].*

3. That the several allegations contained in the said petition are respectively true and correct.

SWORN, etc.

## PETITION FOR PATENT

BY JOINT INVENTORS.

To the Commissioner of Patents, Ottawa.

THE PETITION of *[name and occupation]* and *[name and occupation]*, both of —, in the county of —, in the province of —, sheweth:

That they have jointly invented (*f*) a new and useful improvement in [the art or process of separating smut from wheat, *or as the case may be*], not known or used by others before their invention thereof, and not being in public use, or on sale, with their consent or allowance as such inventors, for more than one year previous to their application for a patent therefor in Canada.

Your petitioners, therefore, pray that a patent may be granted to them jointly for the said invention, as set forth in the specification in duplicate relating thereto, and, for the purposes of The Patent Act, your petitioners elect their domicile in the — of —, in the province of —.

Dated at — the — day of — 19—.

*[Signature of each inventor.]*

## AFFIDAVIT

OF JOINT INVENTORS.

CANADA:

Province of —,  
County of —.

We, A. B. of the — of — in the  
county of —, and province of —,  
—, and C. D. of the — of — in  
the county of —, and province of —,  
—, do hereby severally make oath and  
say:

1. I, this deponent, A.B., verily believe that I and the said

(*f*) See Rule 10 on page 597.

C.D. are the inventors of the new and useful improvement in [the art or process of separating smut from wheat, *or as the case may be*], described and claimed in the specification in duplicate relating thereto, for which we solicit a patent by our petition to the Commissioner of Patents, dated the — day of — 19—.

2. That the said improvements have not been patented to me, or to others with my knowledge or consent, in any country, [*or if previously patented in any other country, insert instead of the above the paragraph following:*]

2. That the said improvements have not been patented to me or to others with my knowledge or consent except in the following countries: [*Insert here the country or countries in which it has been so patented, giving the date and number of each patent.*]

3. That the several allegations contained in the said petition are respectively true and correct.

4. I, this deponent, C.D., verily believe that I and the above named A.B. are the inventors of the new and useful improvement in [the art or process of separating smut from wheat, *or as the case may be*], described and claimed in the specification in duplicate relating thereto, for which we solicit a patent by our petition to the Commissioner of Patents, dated the — day of — 19—.

5. That the said improvements have not been patented to me or to others with my knowledge or consent, in any country, [*or if previously patented in any other country, insert instead of the above the paragraph following:*]

5. That the said improvements have not been patented to me or to others with my knowledge or consent except in the following countries: [*Insert here the country or countries in which it has been so patented, giving the date and number of each patent.*]

6. That the several allegations contained in the said petition are respectively true and correct.

The said A.B. and C.D. were severally  
sworn before me at the — of —, in  
the county of —, this — day of —  
19—.

A Commissioner, etc.

## PETITION FOR PATENT

BY AN ADMINISTRATOR OR EXECUTOR.

To the Commissioner of Patents, Ottawa.

THE PETITION of A.B., of the — of —, in the province of —, administrator of the estate [*or*, executor of the last will and testament] of C.D., in his lifetime of the — of —, deceased [*give occupation of deceased*], (as by reference to the duly certified copy of letters of administration [*or*, letters testamentary] hereto annexed will more fully appear), sheweth:

That the said C.D. did invent (*g*) a new and useful [composition of matter for making artificial stone, *or as the case may be*] not known or used by others before his invention thereof, and not being in public use or on sale with the consent or allowance of the said C.D., as such inventor, for more than one year previous to his application for a patent therefor in Canada.

Your petitioner, therefore, prays that a patent may be granted to him as administrator [*or*, executor] of the estate of the said C.D. for the said invention, as set forth in the specification in duplicate relating thereto, and, for the purposes of The Patent Act, your petitioner elects his domicile in the — of —, in the province of —.

Dated at —, the — day of — 19—.

[*Signature of administrator or executor.*]

## AFFIDAVIT

OF ADMINISTRATOR OR EXECUTOR OF INVENTOR.

CANADA:	}	I, A.B., of the — of — in the
Province of —,		
County of —.	}	county of —, —, make oath and say:

1. I am the person named in the petition hereto annexed as administrator of the estate [*or*, executor of the last will and testament] of C.D. therein named.

2. I verily believe that the said C.D. was the inventor of the new and useful [composition of matter for making artificial stone, *or as the case may be*] described and claimed in the specifica-

(*g*) See Rule 10 on page 597.

tion relating thereto, and for which I solicit a patent as administrator [*or, executor*] by my petition dated the — day of — 19—.

3. The said improvements have not, to my knowledge or belief, been patented to the said C.D. or to me, or to others with my knowledge or consent, in any country, [*or if previously patented in any other country, insert instead of the above the paragraph following:*]

3. The said improvements have not, to my knowledge or belief, been patented to the said C.D. or to me, or to others with my knowledge or consent, except in the following countries: [*Insert here the country or countries in which it has been so patented, giving the date and number of each patent.*]

4. The several allegations contained in the said petition are respectively true and correct.

SWORN, etc.

---

## PETITION FOR RE-ISSUE OF PATENT

BY PATENTEE.

To the Commissioner of Patents, Ottawa.

THE PETITION of — of the — of — in the province of —, [*occupation*], sheweth:

That your petitioner obtained a patent bearing date the — day of — 19—, for a new and useful improvement in [*churns, or as the case may be*].

That your petitioner is advised that the said patent is deemed defective, or inoperative, by reason of insufficient description or specification, and that the errors arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention.

Your petitioner, being desirous of obtaining a new patent in accordance with the amended description and specification (*h*) hereto annexed, therefore prays that he may be allowed to surrender the aforesaid patent, and that a new patent be granted to him, in accordance with the said amended description and

(*h*) The amended description and specification must be in duplicate.



specification, for the unexpired period for which the original patent was granted.

Dated at —, the — day of — 19—.

[Signature of patentee.]

### AFFIDAVIT

OF PATENTEE, ON PETITION FOR RE-ISSUE.

CANADA: } I, —, of the — of —, in the  
Province of —, } county of —, in the province of —,  
County of —. } —, make oath and say;

1. That the several allegations contained in my petition to the Commissioner of Patents, dated the — day of — 19—, for a re-issue of the patent granted to me (*i*) on the — day of — 19—, for a new and useful improvement in [churns, *or as the case may be*] are respectively true and correct.

2. That I am the sole owner of the said patent.

3. That I am the inventor of the improvement set forth and claimed in the amended specification in duplicate relating thereto.

SWORN, etc.

### PETITION FOR RE-ISSUE OF PATENT

BY ASSIGNEE OF PATENTEE *(j)*.

To the Commissioner of Patents, Ottawa.

THE PETITION of A.B., of the — of —, in the county of —, in the province of —, [*occupation*], sheweth:

That your petitioner, by assignment bearing date the — day of — 19—, obtained the exclusive right to a patent granted to C.D. of the — of —, in the province of —, [*occupation*], on the — day of — 19—, for new and useful improvements in [planing machines, *or as the case may be*].

(*i*) If the patent has not been exclusively assigned, the affidavit must state that the application for re-issue is made with the consent of the assignees.

(*j*) This form is to be altered to suit the case when the re-issue is to the administrator or executor of a deceased inventor.

That your petitioner is advised that the said patent is deemed defective or inoperative by reason of insufficient description or specification, and that the errors arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention.

Your petitioner, being desirous of obtaining a new patent in accordance with the amended description and specification (*k*) hereto amended, therefore prays that he may be allowed to surrender the aforesaid patent, and that a new patent be granted to him, as assignee of the said C.D., in accordance with the said amended description and specification for the unexpired period for which the original patent was granted.

Dated at —, the — day of — 19—.

*[Signature of petitioner for re-issue.]*

#### AFFIDAVIT

OF ASSIGNEE OF ENTIRE INTEREST, ON PETITION FOR RE-ISSUE.

CANADA: } I, A.B., of the — of —, in the  
Province of —, } county of —, in the province of —,  
County of —. } —, make oath and say:

1. That the several allegations contained in my petition to the Commissioner of Patents, dated the — day of — 19—, for a re-issue of the patent granted to C. D. of —, in the province of —, [*occupation*], for new and useful improvements in [planing machines, or as the case may be], are respectively true and correct.

2. That I am the sole owner of the said patent.

3. That C.D. was the inventor of the improvements set forth and claimed in the amended specification in duplicate relating thereto.

SWORN, etc.

#### PETITION FOR CAVEAT.

To the Commissioner of Patents, Ottawa.

THE UNDERSIGNED, — of —, in the county of —, in the province of —, [*occupation*], an intending applicant for a

(*k*) The amended description and specification must be in duplicate.

patent, who has made certain new and useful improvements in [locomotive engines, or as the case may be], and has not perfected his invention, prays that his specifications may be filed as a caveat in the patent office. [*Here describe the invention as far as possible, and refer to letters in drawing, as given in specification.*]

Dated at —, the — day of — 19—.

[*Signature of inventor.*]

#### OATH FOR CAVEAT.

CANADA: } I, —, of —, in the county of—  
Province of —, } and province of —, —, make oath and  
County of —. } say:

That I am the inventor of the invention described in the foregoing specification, and that the allegations contained therein are respectively true and correct.

SWORN, etc.

#### SURRENDER OF PATENT

TO ACCOMPANY APPLICATION FOR RE-ISSUE.

TO ALL to whom these presents shall come, —, of the — of —, in the province of —, [*occupation*], within named, sends greeting;

WHEREAS the within written patent, for [an improvement in —], is deemed defective or inoperative by reason of insufficient description or specification, and the error arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention, and the Commissioner of Patents accordingly, in pursuance of the statute in that behalf, hath agreed to accept the surrender of the same;

Now know ye, that the said —, within named, doth by these presents surrender and yield up the within written patent, granted to him for [improvements in —], and bearing date the — day of — 19—.

IN WITNESS whereof the said — hath set his hand and affixed his seal this — day of — 19—.

SIGNED, SEALED AND DELIVERED at the — of — in the  
county of — in the province of — in the presence of —,

[Signature of applicant for re-issue.]

### DISCLAIMER

BY PATENTEE, OF PART OF CLAIM (1).

I, —, of — in the province of —, having on the —  
day of — 19—, obtained a patent for the Dominion of Canada,  
for new and useful improvements in [wagon brakes, *or as the case  
may be*] and through mistake, accident or inadvertence, without  
any wilful intent to defraud or mislead the public, I have made  
the claim in my specification too broad [*or, as being the inventor  
of a material or substantial part of the invention patented, of  
which I was not the inventor, and to which I had no legal right.*]

I, therefore, hereby disclaim the part of the claim in the  
specification, which is in the following words: [*Here quote the  
exact words disclaimed.*]

Dated at —, this — day of — 19—.

SIGNED in duplicate }  
in the presence of —. }

### POWER OF ATTORNEY.

To the Commissioner of Patents, Ottawa.

THE UNDERSIGNED, A.B., of the — of — in the county  
of — in the province of —, [*occupation*], hereby appoints  
C.D. of the — of — in the province of —, his attorney,  
with full power of substitution and revocation, to prosecute an  
application for new and useful improvements in [sewing machines,  
*or as the case may be*], to make alterations and amendments  
therein, to sign the drawings, to receive the patent and to transact  
all business in the patent office connected therewith.

SIGNED at —, this — day of — 19—.

In the presence of }

A.B.

(1) The disclaimer must be made in duplicate.

### REVOCATION OF POWER OF ATTORNEY.

To the Commissioner of Patents, Ottawa.

THE UNDERSIGNED, A.B., of the — of — in the county of — in the province of —, [occupation], having on or about the — day of — 19—, appointed C.D., of the — of — in the province of —, his attorney to prosecute an application for a patent for new and useful improvements in [sewing machines, or as the case may be] hereby revokes the power of attorney then given.

SIGNED at —, this — day of — 19—.

In the presence of }

A.B.

### ASSIGNMENT OF INVENTION.

ASSIGNMENT OF INTEREST BEFORE ISSUE OF PATENT (m).

IN CONSIDERATION of — dollars to me paid by — of the — of —, I do hereby sell and assign to the said —, his legal representatives or assigns, all [or, an undivided (half) of all] my right, title and interest in and to my invention for [new and useful improvements in —,] as fully set forth and described in the specification which I have signed preparatory to obtaining a patent.

And I do hereby authorize and request the Commissioner of Patents to issue the said patent to — [or, jointly to myself and the said —,] in accordance with this assignment.

WITNESS my hand [and seal (n)] at —, this — day of — 19—.

[SIGNED, SEALED, etc.]

### ASSIGNMENT OF INVENTION

INCLUDING FUTURE IMPROVEMENTS, BEFORE ISSUE OF PATENT.

WHEREAS I, —, of —, in the county of — and province of —, am about to make application for a patent of Canada for an improvement in —, which is described in the

(m) See Rule 19 and notes (b) and (c) on page 597.

(n) The parties may desire that the assignment be under seal, but it is not required by the Patent Office.

specification signed by me on the — day of — 19—, of which invention I am the sole owner.

Now, in consideration of one dollar to be paid by — of —, I hereby sell and assign to the said — [*here insert the interest assigned*] all my right, title and interest in and to such patent therefor when granted, and any and all improvements now made or which hereafter may be made by me in or on the said machine, [or any machine of the same class or for the same purpose].

And I hereby request the Commissioner of Patents to issue the said patent, when granted, to the said —, as the assignee of my whole right, title and interest therein, for the sole use and behoof of the said —, his executors, administrators and assigns [or, jointly to myself and the said —].

And in consideration of the said payment I hereby agree with the said —, his executors, administrators and assigns, that at all reasonable times hereafter, on their request but at their cost, I will execute and deliver such petitions, specifications and documents as in their judgment may be desirable or necessary to obtain for them such divisions of the said application or re-issues of the said patent as they may require, and all benefits of such divisions and re-issues shall belong to them. This agreement and assignment shall be binding also on my executors and administrators.

WITNESS my hand [and seal (o)] this — day of — 19—.

[SIGNED, SEALED, etc.]

### ASSIGNMENT OF PATENT.

#### ASSIGNMENT (p) OF INTEREST AFTER ISSUE.

In consideration of — dollars to me paid by — of — I do hereby sell and assign to the said —, his legal representatives and assigns, all [or, an undivided (*here state portion of interest assigned*) of] my right, title and interest in and to

(o) The parties may desire that the assignment be under seal, but it is not required by the Patent Office.

(p) See Rule 19 and notes (b) and (c) on page 597.

the Patent of Canada, No. — (q) for an improvement in [*set out description so as to clearly describe invention*], granted to me on the — day of — 19—, the same to be held by and enjoyed by the said — to the full end of the term for which said patent is granted as fully and entirely as the same could have been held and enjoyed by me if this assignment and sale had not been made.

WITNESS my hand, etc.

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#### ASSIGNMENT OF PATENT.

ASSIGNMENT (a) OF INTEREST AFTER ISSUE, WITH COVENANT AS TO RE-ISSUE AND EXTENSION.

In consideration of — dollars to me paid by — of — I hereby sell and assign to the said — [*here insert the interest assigned*] all my right, title and interest in and to the Patent of Canada, No. — (q) for an improvement in [*set out description so as to clearly describe invention*] granted to me on the — day of — 19—.

The same to be held and enjoyed by the said — to the full end of the term for which the said patent is granted [including any extension] as fully and entirely as the same could have been held and enjoyed by me if this assignment and sale had not been made.

And I hereby covenant with the said —, his executors, administrators and assigns, that I will, whenever the legal counsel of the said assignee, his executors, administrators and assigns, shall advise that a re-issue or extension of the said patent is lawful and desirable, sign all papers, take all rightful oaths, and do all acts necessary or convenient to the procurement of such re-issue or extension, without charge to the said assignee, but at his expense.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(q) The number and date of the patent must be given.

## ASSIGNMENT OF PATENT.

ASSIGNMENT OF PATENTEE'S INTEREST, WITH COVENANTS AS TO  
TITLE AND FURTHER ASSURANCE.

(Another form (r)).

THIS INDENTURE made the — day of — 19—, between  
—, of the — of — in the county of —, —, hereinafter  
called the assignor, of the one part and the — Company, of  
the — of —, hereinafter called the company, of the other  
part.

WHEREAS one A. B. of — and the assignor did obtain  
in their joint names on the — day of — 19—, a patent of  
Canada, No. — (q) for [set out description so as to clearly  
describe invention].

NOW THIS INDENTURE WITNESSETH that in consideration of  
— dollars paid by the company to the assignor, the receipt  
whereof is hereby acknowledged, the assignor doth hereby sell,  
assign, transfer and set over to the company all the right, title  
and interest of the assignor in the said invention as secured to  
him by the said patent to, for and in the territory of the Dominion  
of Canada.

To have and to hold the same to the company, its successors  
and assigns, and to its and their behoof, to the end of the  
term for which the said patent is granted, and for the term of any  
extensions thereof hereafter to be granted, in the same manner  
and as fully as the assignor now holds the same.

And the assignor covenants with the company that he, the  
assignor, hath not done or suffered any act, matter or thing where-  
by his right, title or interest in the said invention as secured to  
him by the said patent have been, or can, or may hereafter be,  
impeached or encumbered in any way whatsoever, and that he, the  
assignor, hath full power and authority to sell, assign, transfer  
and set over the same as it is hereby sold, assigned, transferred  
and set over.

And that he, the assignor, will do and execute every such  
further act, matter or thing for the better and more perfect  
assigning and assuring of the said patent, and the right, title and

(r) This form may be used when covenants are specially desired.  
As a rule the form on page 609 is accepted, and is usually sufficient.



interest of the assignor in the said invention as thereby secured to him, as the company or its counsel in the law shall reasonably advise or require.

IN WITNESS, etc.

SIGNED, SEALED, etc.

---

#### ASSIGNMENT OF PATENT (s).

##### TERRITORIAL.

WHEREAS — of —, in the county of —, and province of —, did obtain the Patent of Canada No. — (q) for certain improvements in —, which patent bears date the — day of — 19—.

AND WHEREAS I am now sole owner of the said patent and of all rights thereunder in the following territory, namely—.

NOW THEREFORE, in consideration of — dollars to me paid by — of —, I do hereby sell and assign to the said — [here insert the interest conveyed] all my right, title and interest in and to the said patent for, to and in [describe territory] and for, to and in no other place.

The same to be held and enjoyed by the said —, his executors, administrators and assigns, within and throughout the above specified territory, but not elsewhere, to the full end of the term for which the said patent is granted [including any extension] as fully and entirely as the same could have been held and enjoyed by me if this assignment and sale had not been made.

IN WITNESS, etc.

SIGNED, SEALED, etc.

---

#### LICENSE,

##### WITH ROYALTY.

THIS AGREEMENT made the — day of — 19—, between — of —, of the first part, and — of —, of the second part.

WHEREAS the Patent of Canada, No. —, dated the — day of — 19—, for an improvement in —, was granted to

(s) See Rule 19 and notes (b) and (c) on page 597.

the party of the first part, and the party of the second part is desirous of manufacturing —, containing the said improvement.

NOW THIS AGREEMENT WITNESSETH that the parties hereto agree as follows:

1. The party of the first part hereby licenses and empowers the party of the second part to manufacture —, containing the said improvement, subject to the conditions hereinafter named, at his establishment in —, and to sell the machines so manufactured within [Canada].

2. The party of the second part agrees to make full and true returns to the party of the first part under oath or statutory declaration upon the — day of — in each year, of all — manufactured by him, containing the said improvement.

3. The party of the second part agrees to pay the party of the first part —, as a license fee upon every — manufactured by the party of the second part, containing the said improvement; provided that, if the said fee be paid upon the days provided herein for returns, or within — days thereafter, a discount of — per cent shall be made from the said fee for prompt payment.

4. Upon the failure of the party of the second part to make returns, or to make payment of license fees, as herein provided, for — days after the days named herein, the party of the first part may terminate this license by serving a written notice upon the party of the second part; but the party of the second part shall not thereby be discharged from any liability to the party of the second part from his obligation to pay the license fee due previously to the service of the said notice.

IN WITNESS, etc.

SIGNED, SEALED, etc.

---

#### LICENSE.

#### SHOP-RIGHT.

IN CONSIDERATION of — dollars, to me paid by C.D., of —, the receipt whereof is hereby acknowledged, I hereby license and empower the said C. D. to manufacture in the —

of —, in the county of —, and province of —, the improvement in — for which the Patent of Canada, No. —, dated the — day of — 19—, was granted, and to sell the [machines] so manufactured throughout the said — to the full end of the term for which the said patent is granted.

And I hereby covenant with the said C.D. that I have full right to grant this license under the said patent, in the manner and form above written.

IN WITNESS, etc.

SIGNED, SEALED, etc.

---

### LICENSE.

#### PERSONAL.

THIS AGREEMENT and license made this — day of — 19—, between A.B. of —, hereinafter called the licensor, of the first part, and C.D., of —, hereinafter called the licensee, of the second part.

WITNESSETH that whereas the Patent of Canada, No. —, dated the — day of — 19—, was granted to —, for the invention described as —.

NOW THEREFORE, in consideration of the covenants of the licensee herein contained, and of the sum of — dollars, the receipt whereof is hereby acknowledged, the licensor doth hereby sell, assign and convey unto the licensee the exclusive right to make, use and vend the said invention for the term of — years from the date hereof, in the following described territory, viz.:—.

And the licensee hereby covenants and agrees with the licensor that he will immediately commence the manufacture of the said invention in accordance with the said patent, and that he will use all his business tact and skill and all other means necessary to introduce and sell the same, and to make the sale thereof as large as in any way possible in the territory aforesaid during the continuance of the license aforesaid and no longer, and to sell the said device nowhere but in the territory specified, except on the written consent of the licensor. And the licensee agrees to accept in the aforesaid license such rights

as are covered by the patent named, and to maintain them at his own cost and expense in actions at law, whenever in his judgment it shall be necessary so to do, and to avail himself of such advice, counsel and assistance as the licensor may elect to give in such actions; and that in the case of the failure of the licensee to perform the covenants and agreements hereby entered into, the licensor may annul and revoke this license and terminate this agreement.

IN WITNESS, etc.

SIGNED, SEALED, etc.

---

### LICENSE.

#### WITH QUARTERLY PAYMENTS.

THIS AGREEMENT and license made this — day of — 19—, between — of —, of the first part, and — of —, of the second part.

WHEREAS the Patent of Canada, No. —, dated the — day of — 19—, was granted to — for the invention described as —.

AND WHEREAS the party of the second part, acknowledging the novelty and utility of the said invention and the validity of the said patent, is desirous of acquiring the right to —, under and according to the said patent.

NOW THESE PRESENTS WITNESS that the party of the first part, in consideration of — dollars to him paid by the party of the second part, the receipt whereof is hereby acknowledged, and of the faithful performance of the covenants and agreements of the party of the second part herein contained, the party of the first part doth hereby sell and grant unto the said — the right, license and privilege to —, with any and all modifications of which the said invention is susceptible, to the full extent of the grant contained in the said patent, and to use, sell and deliver the — for use in any and all places.

And the party of the second part covenants and agrees that he will employ good materials and workmanship, and will conduct the business honourably and skillfully, so as to endeavour to make and maintain a good reputation for the invention, and

will keep exact and full accounts of —, and will allow the party of the first part, or his agents, to examine his books at all reasonable times. And that he will make a full return under oath or statutory declaration to the party of the first part, or his legal representatives, on the [first days of January, April, July and October] in each year, showing the — delivered during the three months prior to the first day of the month preceding, and that he will then pay the license fee thereon, as set forth below, by forwarding it to the place of business of the party of the first part, or his legal representative, in —, [or, to the — bank at —] or such other place as shall hereafter be mutually agreed upon.

The following is the license fee to be paid by the party of the second part on all — under and according to this invention, namely: —.

In case of the refusal or neglect of the party of the second part to fulfil the conditions of this agreement for [thirty] days, after having been requested in writing so to do, then, on the serving of a notice in writing on the party of the second part or by leaving it at his place of business, the party of the first part may, in [thirty] days from and after such service of notice, declare this license to be void, and such license and agreement shall thereupon be void, but otherwise shall remain in full force and effect to the end of the term for which the said patent is granted, and under all re-issues, divisions and extensions thereof.

And it is understood and agreed that in case of the termination of this license by reason of notice served as above, nothing herein contained shall release the party of the second part from the obligation to pay the royalty then already accrued at the date of such termination, nor to relieve the party of the second part in any way from the position of an infringer, if he continues thereafter to use the invention without a new license, which new license it shall be at the option of the party of the first part to grant or refuse.

The right, privilege and license hereby granted is not, nor is any part of it to be, transferable or assignable by the party of the second part, and it is not the intention to give to the party of the second part any right or privilege except what he shall personally exercise; and the party of the second part hereby

covenants and agrees, as a condition of the enjoyment of the right and privilege hereby granted, to stamp, print or otherwise mark in a conspicuous manner on each and every — manufactured by him under the said patent, the word and figures following, viz.: ["Patented —"].

IN WITNESS, etc.

SIGNED, SEALED, etc.

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# POWERS OF ATTORNEY.

## POWER OF ATTORNEY

### WITH SPECIAL CLAUSES.

KNOW ALL MEN by these presents that I, A.B., of the — of — in the county of —, —, do hereby constitute and appoint C.D., of — [or, C.D., of —, and E.F., of —, or either of them], my true and lawful attorney [or, attorneys] for me, and in my name, place and stead, and for my sole use and benefit [*here add such of the clauses following as may be required*].

#### *Execute a particular instrument.*

To sign, seal and deliver in my name, and as my act and deed, a certain instrument bearing date on or about the — day of — 19—, intended to [convey to — of — all that certain parcel of land, situate, etc., for the consideration of — dollars, and to receive the purchase money thereof for me and on my behalf].

#### *Sell real property.*

To sell all that certain parcel of land, situate, etc., [*If it is intended to give power to sell all property now in possession say: To sell all my real estate wherever situated, or if it is intended to include property acquired subsequently to the giving of the power, say: To sell all real estate now owned or hereafter acquired by me, or any real estate in which I now have or may hereafter acquire an interest, wherever situated*] at such times and either by public auction or private sale, and upon such terms and conditions as my said attorney shall think fit, with liberty to buy in at any such sale as aforesaid, to rescind or vary any contracts for sale, and to re-sell without being answerable for any loss arising thereby, and also to execute to the purchasers of the said lands such deeds of grant, conveyances or assurances for the purposes aforesaid as may be required, and also to give effectual receipts and discharges for the purchase moneys of the

said lands, and such receipts shall exempt the persons paying such moneys from all responsibility of seeing to the application thereof.

*Mortgage a particular lot.*

To sign, seal and deliver a mortgage of all that certain parcel of land, situate, etc., to such person, persons or corporation as shall advance to me by way of a loan upon the security of the said mortgage the sum of — dollars, such mortgage to contain the usual statutory covenants and power of sale [and such further covenants, clauses and conditions as the mortgagee may require and my said attorney may deem expedient, or else insert such special covenants as are desired], and upon such terms and conditions as may be deemed proper by my said attorney.

*Mortgage real and personal property.*

To mortgage and borrow money upon the security of my property, real and personal [now owned or hereafter acquired] and wherever situated [except my property at —], from time to time, and in such sums and upon such terms and conditions as to my said attorney may seem expedient, and for such purposes to sign, seal and deliver all mortgages or other instruments which may be required, which mortgages shall contain the usual statutory covenants and power of sale [and such further covenants, clauses and conditions as the mortgagee may require and my said attorney may deem expedient, or else insert such special covenants as are desired], and to give such bonds or promissory notes collateral to the said mortgages as may be necessary or proper in connection therewith and collateral thereto, and to repay the said mortgage moneys at such times as to my said attorney may seem expedient.

*Sell personal property.*

To sell and absolutely dispose of, at such time or times and upon such terms and conditions and for such price or prices and by public auction or private contract, as to my said attorney shall seem reasonable or expedient, all [mortgages and other securities for money, stocks, shares, bonds, goods, chattels] and other personal property whatsoever [now owned or hereafter acquired by me] and to assign, transfer and make over the same



respectively to the purchaser or purchasers thereof, with power to give credit for the whole or any part of the purchase money thereof, and to permit the same to remain unpaid for whatever time and upon whatever security, real or personal, my said attorney shall think proper.

*Manage property.*

To take possession of, manage, cultivate, improve and let all my lands, tenements and hereditaments whatsoever and wheresoever situated, [*or*, my property at —] and to appoint agents or servants to assist him in managing the said property, and to displace or remove such agents or servants and appoint others in his discretion, and to receive the rents of any or all of my lands, houses and other buildings, or any part thereof; to erect, pull down and repair buildings on any part of my property and insure any such buildings against loss or damage by fire; to make arrangements with tenants; to accept surrenders of leases; and generally to deal with my property as effectually as I myself could do; and also to take all lawful proceedings, by way of action or otherwise, for recovery of rent in arrear, or for eviction of tenants; to commence, carry on and defend all actions, suits and other proceedings touching my property or any part thereof, or touching anything in which I or my real or personal estate may be in any wise concerned; to pay any premiums upon policies of insurance, expenses of repairs or improvements and other outgoings in respect of any part of my real or personal property as my said attorney shall think fit; and to receive the dividends, interest and income arising from my property; and for the purposes aforesaid, or any of them, to sign my name to and execute on my behalf all cheques, contracts, transfers, assignments and instruments whatsoever.

*Make leases and collect rents.*

To sign, seal and deliver all such leases and agreements for leases as shall be requisite, or which my said attorney shall deem necessary or proper in the care and management of my property situate at —, and to receive and collect all rents that may be payable to me or my said property and in my name to give effectual receipts therefor. [*See also next paragraph.*]

*Collect rents and eject tenants.*

To demand, sue for and recover all rents and profits now due or which shall hereafter become due in respect of the said property and to take and use all lawful means for recovering the said rents and profits and for ejecting from the said property all tenants and occupants thereof who are in default, and for determining the tenancy or occupancy thereof, and for obtaining, recovering and retaining possession of all or any of the property held or occupied by such persons so making default.

*Invest moneys (a) and recover sums due.*

To invest such sums of money as I have heretofore entrusted, or shall hereafter in writing entrust to him for such purpose, such investments to be made in some or all of the following securities, namely: stock, debentures or securities of the Government of the Dominion of Canada, or any province thereof, or in debentures or securities the payment of which is guaranteed by the Government of the Dominion of Canada or any province thereof, or in the debentures of any municipality in this province, or in securities which are a first charge on land held in fee simple; or in terminable debentures or debenture stock of any building society or company having a capitalized, fixed, paid-up and permanent stock not liable to be withdrawn therefrom amounting to at least \$200,000, and having a reserve fund amounting to not less than fifteen per cent of its paid-up capital, and its stock having a market value of not less than seven per cent premium, or in terminable debentures or debenture stock of any incorporated society or company (b) authorized to lend money

(a) For Ontario law, see page 622, line 6; in Nova Scotia a trustee may, unless expressly forbidden by the instrument (if any) creating the trust, invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following, that is to say: (a) In the Dominion savings' bank. (b) In the debentures or bonds of the Dominion, province, or of any city, town or municipality of the province. (c) In mortgages of real property; or in the stock of any bank to which any of the provisions of the Banking Act of the Dominion of Canada apply, or in deposit receipts of any of such banks. (d) In such other securities as are authorized by a general order of the Supreme Court; or (e) In such other securities as the court or a judge upon application in any particular case selects as fit and proper (R. S. N. S., c. 151, s. 3; N. S., 1901, c. 48).

(b) No investment shall be made, under the authority of "The Trustee Investment Act" of Ontario, in the debentures of such society or company unless the latter has obtained an order of the Lieutenant Governor in Council approving of investment in the debentures thereof (R. S. O., c. 130, s. 6).

upon mortgages on real estate, such society or company having a capitalized, fixed, paid-up and permanent stock not liable to be withdrawn therefrom amounting to at least \$400,000, and having a reserve fund amounting to not less than twenty-five per cent of its paid-up capital, and its stock having a market value of not less than seven per cent premium: [*In Ontario, substitute for the preceding part of this paragraph, To invest such sums of money as I have heretofore entrusted or shall hereafter in writing entrust to him for such purpose, such investments to be made in some or all of the securities allowed by "The Trustee Investment Act," being R.S.O., c. 130], or in such other securities as are allowed by any statute of this province to trustees and executors having trust money in their hands to invest in, provided such investment shall in other respects be reasonable and proper. To receive all moneys which may from time to time become due to me on any mortgage security or other investment for me in the [province of —], and from time to time to alter, vary, sell and transfer my said mortgage securities or other investments, and again to lay out and invest them in such other securities of the same or like nature as my said attorney may think most for my benefit, and upon receipt of any money so invested, or to be invested, or any part thereof, or the interest thereon, such good and sufficient receipts, releases and discharges to make and give for the same as the nature of the case shall require, and on default by any persons liable to pay any sum of money due to me as aforesaid to use such customary and legal ways and means for securing payment thereof as my said attorney may think proper, and, for such purpose, for me and in my name to sign, seal and deliver any deed or conveyance under power of sale in any mortgage, assignment of mortgage, certificate of discharge of mortgage or other instrument in writing whatsoever which shall appear to my said attorney for my benefit, or requisite to be done concerning the said securities and property hereinbefore mentioned, and in my name to indorse any cheques payable to me in relation to any of the moneys aforesaid.*

*Recover debts generally.*

To demand, sue for, recover and receive from all persons whomsoever all debts, sums of money, securities for money, legacies, goods, chattels, effects and things whatsoever which now

are, or shall hereafter be due, owing, payable or belonging to me, whether in respect of any real estate now owned or hereafter acquired by me, or for the interest or dividends to accrue or become payable to me for or in respect of any shares, stock or interest which I may now or hereafter hold in any joint stock or incorporated company or for any moneys or securities for money which are now or hereafter may be due, or owing, or belonging to me upon any bond, note, bill of exchange, balance of account, contract, judgment, order or execution, or upon any other account or otherwise howsoever, and in my name to give effectual receipts and discharges therefor.

*Recover a particular debt.*

To demand, sue for, recover and receive from — of — the sum of — dollars owing from him to me for —, and all interest due in respect thereof, and to give proper receipts and discharges therefor.

*Pay or compromise debts.*

To enter into any agreement, compromise or arrangement with any or every person to whom I am now or shall hereafter be indebted touching the payment or satisfaction of his demand, or any part thereof, and generally to do all lawful acts requisite for effecting the premises.

*Compound debts.*

To compound, compromise and accept part in satisfaction for the payment of the whole of any debt or sum of money payable to me, or to grant an extension of time for the payment thereof, either with or without taking security, or otherwise to act in respect thereof as to my said attorney shall appear most expedient.

*Give receipts and discharges.*

Upon the recovery or receipt of all and every sum or sums of money, goods, chattels, effects or things due, owing, payable or belonging to me, to sign, seal, execute and deliver such good and sufficient receipts, releases, certificates, reconveyances, surrenders, assignments or other good and effectual discharges as may be requisite.

*Maintain actions.*

In case of neglect, refusal or delay on the part of any person to make and render a just, true and full account, payment, delivery and satisfaction in the premises, him, them, or any of them, hereunto to compel, and for that purpose to make such claims and demands, [arrests, seizures, levies, attachments, distrains and sequestrations] or to commence and prosecute to judgment and execution such actions as my said attorney shall think fit; also to appear before all or any judges, magistrates or other officers of any court, and then and there plead, claim, defend and reply in all matters and causes concerning the premises; and also to exercise and execute all powers of sale or foreclosure, and all other powers and authorities vested in me by any mortgage belonging to me as mortgagee.

*Settle accounts.*

To examine, state, settle, liquidate and adjust all accounts depending between me and any persons whomsoever.

*Submit to arbitration.*

In case of any difference or dispute with any person concerning any of the matters herein [*or as may be desired*] to submit any such differences and disputes to arbitration in such manner as my said attorney shall think fit, and sign, seal and execute any instruments for the purpose of giving effect to such submission.

*Receive a legacy or annuity.*

To demand receive from the executors of the will of —, deceased, or other the person or persons liable to pay the same, all that legacy [*or, annuity*] of — dollars bequeathed to me by the said will, and all interest due thereon, and on payment of the said legacy to give an effectual receipt and discharge therefor, and also as my act and deed to sign, seal and deliver if required a bond or other security for the repayment of the said legacy, or of a due proportion thereof in case the estate and effects of the said — [*testator*] shall prove insufficient to discharge the debts and other prior demands which may thereafter be made thereupon. [*If the legacy is charged upon land, add; and to give a valid and effectual release and discharge of the lands charged with such legacy, of and from the said legacy,*

and all interest thereon, and all claims in respect thereof.] And if the estate of the said — is inadequate to pay the said legacy in full, then to accept such sum of money in satisfaction of the said legacy as to my said attorney shall seem proper; and on non-payment of the said legacy, or any part thereof, or any interest due in respect thereof, to bring all such actions and do all such other acts and things for the purpose of obtaining payment thereof as my said attorney shall think best.

*Accept stock.*

To accept all such issues or transfers as are or may hereafter be made unto me of any interest or share in the capital or joint stock of the [name of company, bank, etc., as the case may be].

*Transfer stock.*

To sell, assign and transfer to —, — shares in the capital stock of the [name of company, bank, etc., as the case may be] standing in my name, or in which I may have any interest.

*Accept and transfer stock and receive dividends.*

To accept all such issues or transfers as are or may hereafter be made unto me of any interest or share in the capital or joint stock of the [name of company, bank, etc., as the case may be] and to subscribe to the rules of the said [company, bank, etc.]; to receive and grant receipts for all dividends now due or which may hereafter become due and payable for the time being in respect of all shares which I now or hereafter may have in the stock of the said [company, bank, etc.]; to sell, assign and transfer all or any part of my said stock; to receive the consideration money, and to give receipts therefor.

*Vote at meetings of a corporation (c).*

To vote at all meetings [or as may be desired] of the [name of company, bank, etc., as the case may be] and otherwise to act as my proxy or representative in respect of any shares now held or which may hereafter be acquired by me in the said [company, bank, etc.].

*Bar dower.*

To grant and release to any purchasers, mortgagees, or other grantees, his, her or their heirs, executors, administrators

(c) See also p. 633.

or assigns, all my dower and right and title which, in the event of my surviving my said husband, I might or would have to dower, in, to or out of any lands, or any part thereof, in, to or out of which my said husband now has or hereafter may have any right, title, claim or interest, whether legal or equitable, and to sign, seal, execute and deliver all releases, deeds or other instruments necessary for such purposes.

*Draw cheques, etc.*

And to sign, draw, make or endorse my name to any cheques, orders for the payment of money, bills of exchange or promissory notes, in which I shall be interested or concerned, which shall be requisite. And also in my name to draw upon any banks or individuals for any sums of money which are or may be to my credit, or which I am or may be entitled to receive, and the same to deposit in any bank or other place, and again at pleasure to draw for from time to time.

*For a trustee to wind up a firm's business.*

To enter into possession of the premises of the firm of — & Co. at —, and take possession of the stock-in-trade, books of account, policies of insurance, bills, notes, securities, book debts and all other assets of the said firm, and thence to proceed and sell and dispose of the stock-in-trade in the ordinary course of business, but at such discount or reduction on the present selling prices as my said attorney shall think proper, and so as to convert the same, or as much thereof as possible, into money on or before the — day of — next, and to collect and call in the book debts or sums of money, and all securities for money, owing to the said firm, and the proceeds of the said collections and of the sales of the stock-in-trade and other assets, as aforesaid, of the said firm, after paying the reasonable charges and expenses of the said attorney and of such sale and conversion, to divide ratably and proportionately between the creditors of the said firm. Provided that my said attorney may, after the said — day of —, sell the unsold stock-in-trade en bloc, and also the book debts and other assets of the said business either by public auction or private contract, and either for cash or upon such terms of credit as he shall think proper.

*Power irrevocable for stated time.*

I declare that the powers herein contained shall be irrevocable for the period of — [months] from the date hereof.

*Not to be revoked by death.*

And that the powers herein contained may be exercised in the name and on the behalf of my heirs or devisees, executors or administrators, and shall not be revoked by my death (d).

*Previously given powers not affected.*

Provided that these presents or the powers hereby given shall in no wise extend or be deemed or construed to extend to revoke or make void any former or other power of attorney by me at any time hereinbefore given to the attorney or any person or persons whomsoever for any distinct or other purpose, but such other powers shall still remain and be of the same authority, validity, force and effect as if these presents had not been made.

*Revocation of previous proxies.*

I hereby revoke all other proxies previously given.

*Appointment of second attorney to act on decease of first (e).*

In the event of the said [first attorney] dying or becoming incapable of acting, or refusing to act, or becoming bankrupt, during my absence, I hereby appoint — [second attorney] my

(d) By R. S. O., c. 116, if a power of attorney provides that it may be exercised in the name and on the behalf of the heirs or devisees, executors or administrators of the person executing it, or provides by any forms of words that it shall not be revoked by the death of the person executing it, such provision shall be valid and effectual to all intents and purposes according to its tenor and effect. By the same statute it is enacted that independent of such special provision every payment made and act done under a power shall, notwithstanding the death of the person executing it, be valid as respects every person party to such payment or act to whom the fact of the death or the doing of the act was not known at the time of such payment or act bona fide done as aforesaid and as respects all claiming under such last mentioned person.

(e) When the intended residence of the principal is at a great distance or likely to be of long duration, it may be desirable that he should provide for the event of the attorney dying, etc., during his absence: This may be done either by appointing two or more attorneys in the first instance, or by giving the attorney power to appoint a person to succeed him in the event of his own decease, etc., or by the principal naming one himself to act only upon the decease of the first named attorney. For the purpose of the latter alternative the clause above may be used.



true and lawful attorney from and immediately after the happening of any of the said events during my absence to act in and manage all my affairs in the same or like manner in all respects as the said [*first attorney*] could have done, and I accordingly grant to and vest in the said [*second attorney*], as from the date of such event, all and every the same or the like powers and authorities in or concerning the premises in all things as are herein given to or vested in the said [*first attorney*], and as if the name of the said [*second attorney*] had throughout these presents been inserted instead of the name of the said [*first attorney*], and I hereby undertake to ratify whatsoever the said [*second attorney*] [or his lawful attorney or attorneys] shall lawfully do or cause to be done in the premises by virtue of these presents.

*Appointment of substitutes.*

I hereby grant my said attorney full power and authority to substitute and appoint [from time to time] in his place and stead [or, under him] [on such terms and at such salary as he shall think fit] one or more attorney or attorneys to exercise for me as my attorney or attorneys any or all the powers and authorities hereby conferred, and to revoke any such appointment from time to time and to substitute or appoint any other or others in the place of such attorney or attorneys as he, my said attorney, shall from time to time think fit.

*Ratification.*

I, the said —, hereby agreeing and covenanting for myself, my heirs, executors and administrators, to ratify and confirm whatsoever my said attorney [or his lawful attorney or attorneys or substitute or substitutes] shall lawfully do or cause to be done in the premises by virtue of these presents.

IN WITNESS whereof I have hereunto set my hand and seal this — day of — 19—.

SIGNED, SEALED AND DELIVERED }  
in the presence of }

## POWER OF ATTORNEY.

(Short general form (f).)

KNOW ALL MEN by these presents that I, — [appointor], of —, hereby appoint — [attorney] of —, my attorney for me and in my name to do and execute all or any of the following, acts, deeds and things, that is to say:

1. To demand, sue for, enforce payment of, receive and give discharges for all moneys, securities for moneys, debts, stocks, shares and other personal estate now belonging or hereafter to belong to me.

2. To commence, carry on or defend all actions and other proceedings touching my estate, or any part thereof, or touching anything in which I or my estate may be in anywise concerned.

3. To settle, compromise or submit to arbitration all accounts claims and disputes between me and any other persons.

4. To accept the transfer of any stocks, funds, shares, annuities and other securities which shall or may at any time hereafter be transferred to me.

5. To invest any of my moneys in such manner, at such rate of interest and upon such securities as my attorney shall in his absolute discretion think fit, and from time to time to vary the said investments, or any of them, and in the meantime, and pending any such investment as aforesaid, to deposit the said moneys, or any part thereof, with any bank or bankers to whom my attorney shall think fit to entrust the same.

6. Out of such moneys to pay any such calls upon shares or other expenses in respect of any part of my said estate as my attorney shall think fit, and to receive the dividends, interest and income arising from any stocks, shares or other estate now or hereafter belonging to me.

7. To vote at meetings of any companies or otherwise to act as my attorney or proxy in respect of any stocks, shares or other investments now held or which may hereafter be acquired by me therein.

8. To carry into effect and perform all agreements entered into by me with any other person.

(f) For special clauses, see p. 618.

9. For the purposes aforesaid, or any of them, to endorse and sign my name to any cheques, dividend or interest warrants or other instruments payable to me, and to sign my name and execute on my behalf all contracts, transfers, assignments, deeds and instruments whatsoever.

10. [To concur in doing any of the acts and things hereinbefore mentioned in conjunction with any other person or persons interested in the premises.]

11. To appoint and remove at pleasure any substitute for or agent under him in respect of all or any of the matters aforesaid, upon such terms as my attorney shall think fit.

12. Generally to act in relation to my estate and to the premises as fully and effectually in all respects as I myself could do, and whether I am concerned or interested solely or jointly with any other person or persons.

And I hereby undertake to ratify everything which my attorney or any substitute or substitutes or agent or agents appointed by him under the power in that behalf hereinbefore contained shall do or purport to do in virtue of these presents.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### POWER OF ATTORNEY.

#### GENERAL AUTHORITY TO ACT IN EVERY CAPACITY.

KNOW ALL MEN by these presents that I, —, of the — of — in the county of —, —, individually and as officer of and director in any incorporated company, trustee, co-trustee, attorney, agent, partner, and member of syndicate, do hereby appoint — of —, and — of —, and each of them, my attorneys and attorney to do all acts as fully and effectually as I could do if personally present, whether individually or in my capacity of such officer, director, trustee, co-trustee, attorney, agent, partner, or member of syndicate, and particularly the following acts, the enumeration of which is not in any way to limit the general powers herein conferred:

1. To purchase, sell, make, draw, accept, endorse, discount, transfer, renew, negotiate and in every way deal with cheques,

bills of exchange, promissory notes, deposit receipts, bonds, debentures, coupons and every kind of negotiable instrument and security.

2. To subscribe for, accept, purchase, sell, pledge, transfer, surrender and in every way deal with shares, stock, bonds, debentures and coupons of every kind and description and to vote and act in respect thereof.

3. To receive and collect rents, dividends, bonuses, profits, interest, commission, fees, salaries, debts and claims of every kind and to give receipts and discharges therefor and to distrain for rent and interest.

4. To purchase, rent, sell, exchange, mortgage, lease, surrender, manage and in every way deal with real estate and any interest therein and to execute and deliver deeds, mortgages, leases, assignments, surrenders and other instruments.

5. To make, assume, purchase, discharge, assign, pledge and in every way deal with mortgages of real or personal property and to exercise all powers of sale and other powers therein contained.

6. To purchase, assume, sell, mortgage, pledge, exchange, assign, surrender, give options to purchase and in every way deal with timber licenses of every kind and by whomsoever issued, to work and operate limits, to carry on lumbering and manufacturing operations, and to erect and operate mills.

7. To purchase, assume, sell, mortgage, pledge, exchange, assign, surrender, lease, operate, give options to purchase and in every way deal with mines, minerals and mining rights.

I, the said —, hereby agreeing and covenanting for myself, my heirs, executors and administrators, to allow, ratify and confirm whatsoever my said attorney or attorneys shall lawfully do or cause to be done in the premises by virtue of these presents.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## POWER OF ATTORNEY

## TO DISTRAIN FOR RENT.

KNOW ALL MEN that I [*principal*] of —, hereby appoint — and — [*attorneys*] of —, jointly and severally my true and lawful attorneys and attorney for me and in my name jointly and severally to do all or any of the acts and things following, that is to say:

1. To demand, sue for and receive all rent and arrears of rent now due [or which at any time hereafter shall become due] to me by or from the tenant or occupier of my messuage and hereditaments known as — in the — of — in the county of —, and now in the tenure or occupation of [*tenant*] his under-tenants or assigns, and held at a [monthly] rent of — dollars.

2. On payment of such rent and arrears of rent as shall be due, or any part thereof, to give receipts and discharges therefor, and also to settle, pay and allow all demands for ground rent, taxes, claims on account of repairs and other lawful deductions.

3. On non-payment of the said rent and arrears of rent, or any part thereof, to enter into and upon the said premises and to make or cause to be made one or more distress or distresses of all or any goods, chattels, animals, grain (whether cut or standing) or other effects or things whatsoever in or upon the said premises or any part thereof for all such rent as was and now is due and owing to me up to — last past, for or on account of the said premises or any part thereof, [or, for all such rent as may at any time hereafter become due and owing to me].

4. To hold and to keep such distress or distresses when made or taken until payment and satisfaction be made for all such rent due to me and in arrear and all costs and charges of making such distress, and in case of non-payment thereof within the time limited after such distress made by the laws for the time being in force to appraise, sell and dispose of the same or cause the same to be appraised, sold and disposed of according to law.

5. To do or cause to be done all such acts, matters and things whatsoever in any wise relating to the said premises as

fully to all intents and purposes as I the said [*principal*] could do in my own proper person if these presents had not been made.

And whatsoever my said attorneys or attorney, or either of them, shall lawfully do or cause to be done in or about the premises I hereby agree to ratify and confirm.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### PROXY

TO VOTE AT MEETINGS OF A COMPANY (*g*).

I, —, of —, a shareholder in the — company, do hereby appoint — [and —, or either of them], to be my proxy to vote on my behalf at [every annual meeting, and every special general meeting] of the shareholders of the said company which may be hereafter held, upon every matter and question brought before every such meeting to the same extent as I would be entitled if personally present at such meeting.

Dated at — this — day of — 19—.

[WITNESS.]

—,  
Shareholder.

### RETAINER TO SOLICITOR (*h*).

To Mr. —, Solicitor:

I, the undersigned — of —, do hereby request and authorize you to [*state distinctly what authority is to be given and whether to sue (i)*] and generally to complete the said matter and to act as my solicitor therein in such manner as you may deem expedient and proper, and for so doing this shall be your sufficient authority.

WITNESS my hand this — day of — 19—.

WITNESS:

(*g*) See also page 625.

(*h*) A solicitor under an ordinary retainer has authority to effect any reasonable compromise unless expressly forbidden: *Chown v. Parrott*, 32 L.J.C.P. 197; *Fray v. Voules*, 28 L.J.Q.B. 232.

(*i*) *Wray v. Kemp*, 26 Ch. D. 169; *Atkinson v. Abbott*, 3 Drew, 251.

## APPOINTMENT OF SUBSTITUTES.

BY VIRTUE OF AUTHORITY IN POWER OF ATTORNEY.

TO ALL to whom these presents shall come, I, —, of —, send greeting.

WHEREAS — of — duly made and executed under his hand and seal a power of attorney, dated the — day of — 19—, whereby he appointed me his attorney, for him and in his name to do the acts therein specified, with power from time to time to substitute any person or persons to act [under me, or] in my place, as attorney or attorneys in all matters aforesaid, and from time to time every such substitution and appointment at pleasure to revoke.

NOW THESE PRESENTS WITNESS that I, the said —, by virtue and in execution of the authority in that behalf contained in the said power of attorney, and of all other authority me hereunto enabling, do hereby appoint — of — and — of —, and each of them, to be the attorneys and attorney jointly and severally of my said principal —, for him and in his name, or in my name, to execute and perform all and every the matters and things mentioned and contained in the said power of attorney to me, in the same manner and as fully and effectually as he, my said principal, or as I might or could have done if personally present, and as they, the said attorneys, or either of them, might or could have done if they had been appointed the attorneys jointly and severally of my said principal in and by the said power of attorney, instead of me; I, the said —, hereby confirming and agreeing to confirm whatsoever the said attorneys jointly, or either of them separately, shall do, or cause to be done, in and about the premises by virtue of these presents.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## REVOCATION OF POWER,

AND APPOINTMENT OF NEW ATTORNEY.

KNOW ALL MEN by these presents that whereas by a power of attorney dated the — day of — 19—, under my hand and seal, I appointed A.B., of —, to be my attorney with the

powers and authorities therein mentioned; and whereas I am desirous of revoking the powers given to the said A.B. as aforesaid, and of appointing C.D., of —, to be my attorney in place of the said A.B.

NOW THEREFORE I do hereby revoke and make void all and singular the powers and authorities by the said recited power of attorney given to or conferred upon the said A.B., provided always that the revocation herein contained shall not prejudice or affect anything lawfully done or caused to be done by the said A.B., or any substitute acting under him, in the exercise of any such powers or authorities as aforesaid in the interval between this revocation and the time of the same becoming known to him or his substitute. And I hereby ratify and confirm anything lawfully done, or caused to be done, by the said A.B., or any substitute acting under him, in the exercise of any such powers or authorities, including anything so done, or caused to be done, in such interval as aforesaid.

And I do, by these presents, appoint C.D., of —, my attorney in my name to exercise and execute all or any of the powers or authorities by the said recited power of attorney given or conferred to or upon the said A.B. in as full and ample a manner, to all intents and purposes, as if the name of the said C.D. had been inserted in said recited power of attorney in the place of said A.B. therein named; and I hereby for myself, my heirs, executors and administrators, ratify and confirm, and agree to ratify and confirm, whatsoever my said attorney shall do by virtue of these presents.

IN WITNESS, etc.

SIGNED, SEALED, etc.



# RAILWAYS.

## OPTION OF PURCHASE OF LAND

FOR RAILWAY COMPANY PURCHASING RIGHT OF WAY.

I, —, of the — of — in the county of —, —, being the owner in my own right of the [*describe land*] hereby offer to sell to the — Railway Company so much of the said land as may be required by the said company for the right of way or other requirements of its railway [*or, a strip one hundred feet wide across the said land, containing — acres, more or less, as shewn on a plan thereof deposited in the registry office for the said county of —*] at the rate of — dollars per acre [*or, for the sum of — dollars*] to be paid in cash upon the completion of conveyance and title, as hereinafter mentioned, and to be accepted by me as full compensation for the said land, and for all damages sustained by me or to my property by reason of the taking of such land and the construction, maintenance and operation thereon of a line of railway, or by reason of the removal by the said company of any trees standing within one hundred feet of the land so acquired which are liable to fall across any railway track (*a*) [*or, which are liable to cause damage to the railway or works of the said company*].

This offer is open for acceptance for — days from this date, which acceptance may be by letter addressed to me at — post office, [and upon such acceptance I agree to deliver a sufficient conveyance of the said land in fee simple to the said company, in the company's form, with all dowers barred, and free from all encumbrances (*b*)].

And pending acceptance and the completion of conveyance [and title as aforesaid, for which purpose I will furnish my title deeds to the said company forthwith upon such acceptance (*c*)] I consent to the said company taking possession

(*a*) "The Railway Act, 1903," s. 118, s-s. 1. (*j*.)

(*b*) The words within brackets are not essential, but are useful in dealing with farmers.

(*c*) See note (*b*) above.

of the said land and proceeding thereon with the works of its railway.

WITNESS my hand and seal this — day of — 19—.

[Signature and seal of owner of land.]

WITNESS:

[Vendor's name in full.].....

[State if married or single.].....

[Wife's name in full.].....

[Mortgagee's name and address, if any.].....

#### RECEIPT.

RECEIVED from the above named company the sum of — dollars, consideration (*d*) for the above option and consent, to be applied on account of purchase money in the event of the option being accepted.

WITNESS:

#### CONVEYANCE OF RIGHT OF WAY

TO A RAILWAY COMPANY (*e*).

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between — of —, —, herein called the grantor, of the first part, [—, wife of the grantor, of the second part] and The — Railway Company, herein called the grantee, of the [third] part.

WITNESSETH that in consideration of — dollars of lawful money of Canada now paid by the grantee to the grantor, the receipt whereof is hereby by him acknowledged, he, the grantor, doth grant (*f*) unto the grantee in fee simple all that certain

(*d*) Notwithstanding legal decisions to the effect that an option under seal made for a specified time is binding and cannot be revoked, it is deemed safer either to accept it before revocation or else pay a consideration. This receipt clause may be embodied in the option if desired.

(*e*) See also "Conveyance of Land," on p. 638.

(*f*) In Ontario, if the grantor conveys "as beneficial owner" (R.S.O. c. 119), then covenants for right to convey, quiet enjoyment, freedom from incumbrances and further assurance are implied.

parcel of land (*g*) and premises shown colored red on the plan hereto attached, and being part of lot — in the — concession of the township of — in the county of — and province of —, described as follows; viz: A strip of land one hundred feet in width lying fifty feet on each side of the centre line of the — Railway, which said centre line is described as follows:—, the said strip of land containing — acres more or less.

And the grantor releases to the grantee all his claims upon the said lands, and further releases the grantee from all claims and demands for severance or depreciation or arising out of the expropriation or taking by the grantee of the said lands, or the construction, maintenance and operation thereon of a line of railway.

[And the said party of the second part hereby bars her dower in the said lands.]

IN WITNESS, etc.

SIGNED, SEALED, etc.

## CONVEYANCE OF LAND

TO A RAILWAY COMPANY (*h*).

KNOW ALL MEN by these presents, that I, [*name of vendor*], of the — of — in the county of — in the province of —, —, in consideration of — dollars paid to me by the — Railway Company [in full of purchase money, compensation and damages] the receipt whereof is hereby acknowledged, do grant and convey unto the — Railway Company, in fee simple, [*or*, as beneficial owner (*i*)] all that certain parcel of land situate in the township of — in the county of —, [shewn colored red upon the plan thereof hereto annexed,

(*g*) The company is not entitled to any mines, ores, metals, coal, slate, mineral ores or other minerals in or under any land purchased, except such parts thereof as are necessary to be dug, carried away or used in the construction of the works, unless the same have been expressly purchased, and named in the conveyance.

(*h*) This form is adapted from one usually made a schedule to Acts of the legislature of Ontario incorporating railway companies. The words within brackets do not, however, appear in the statutory forms. See also "Conveyance of Right of Way," on p. 637.

(*i*) See note (*f*) on p. 637 and note (*j*) on p. 639.

made by — [provincial] land surveyor] being part of lot number — in the — concession of the said township of —, containing by admeasurement — acres and — one-hundredths of an acre, more or less, and more particularly described as follows: —; the said lands having been selected and laid out by the said company for the purposes of its railway, to hold, with the appurtenances, unto the said company.

[And I, —, the wife of the said —, do hereby bar my dower in the said lands.]

[This conveyance is made in pursuance of the special Acts relating to The — Railway Company, and of the Act respecting (j) the Law and Transfer of Property, being chapter 119 of the Revised Statutes of Ontario, 1897, *or as the case may be.*]

As WITNESS my hand and seal this — day of — 19—.

SIGNED, SEALED, etc.

### AMALGAMATION AGREEMENT

BETWEEN TWO RAILWAY COMPANIES HAVING LEGISLATIVE  
AUTHORITY TO AMALGAMATE (k).

THIS INDENTURE made the — day of — 19—, between the — Railway Company, hereinafter called "the X Company," of the first part, and the — Railway Company, hereinafter called "the Y Company," of the second part.

WHEREAS the companies parties hereto are companies under the legislative authority of the [Parliament of Canada];

AND WHEREAS by chapter — of the statutes of 19— of [Canada] it is, among other things, enacted that the parties hereto may enter into an agreement for amalgamation with each other; that the name of the company constituted by such amalgamation shall be "The X.Y. Railway Company;" that the capital stock of such company shall be the sum of the capital stocks of the two companies [*or as may be agreed*]; that the agree-

(j) See note (f) on p. 637. It is submitted that it is better that covenants should be expressed in plain terms. If, therefore, covenants are desired it will be well to make the conveyance "in pursuance of the Act respecting Short Forms of Conveyances."

(k) This form was approved in Schedules A and B of c. 52 of the statutes of Canada of 1901, and a similar form by c. 69 of the statutes of 1902. See also, Can. 1899, c. 57, Sch. A., and c. 81, Sch. B.

ment for amalgamation may prescribe the other terms and conditions of the amalgamation and may provide for the mode of carrying it into effect; the manner of converting the capital stock of each company into that of the amalgamated company [*etc., etc.*].

AND WHEREAS the parties hereto have agreed to amalgamate upon the terms and conditions hereinafter set out, and this agreement has been duly submitted to the shareholders of each company as required by the statutes applicable to such amalgamation, at meetings duly called and held, at which shareholders representing [at least two-thirds in value of the stock] of the respective companies parties hereto were respectively present or represented by proxy; and this agreement was duly accepted and approved by resolution passed by [two thirds] of the votes of the shareholders present or represented by proxy at such meeting.

NOW THIS INDENTURE WITNESSETH as follows: The X Company and the Y Company hereby agree to amalgamate [and do hereby amalgamate (*l*)] and form one company upon the terms and conditions hereinafter set out;

The name of the amalgamated company shall be "The X.Y. Railway Company;"

The amount of the capital stock of the amalgamated company shall be — dollars, being the total of the capitals of the two companies parties hereto; the said capital shall be divided into shares of one hundred dollars each (*m*).

The head office of the amalgamated company shall be at — in the province of —, or at such other place as the directors of the amalgamated company may by by-law prescribe;

The number of directors shall be [five], with power to increase the same from time to time by by-law to any number not exceeding [ten]. The first directors shall be [names] and they shall hold office until the first annual meeting of the amalgamated company for the election of directors, or until their successors are appointed:

(*l*) If it is desired that the agreement shall come into force only upon the sanction of the Governor in Council, omit the words "and do hereby amalgamate" and substitute the words within brackets in the last paragraph of the agreement.

(*m*) Under The Railway Act, 1903 (Can.), shares must be of \$100 each.

Each shareholder in the X Company shall be entitled to receive, and there shall be issued to him by the amalgamated company, [one] share in the capital stock of the amalgamated company, issued as fully paid up and free from calls and other liability for every [hundred] dollars paid up upon the shares held by him or to which under any contract with the X Company he may be or become entitled in the capital of the X Company;

Each shareholder in the Y Company shall be entitled to receive, and there shall be issued to him by the amalgamated company, [one] share in the capital stock of the amalgamated company, issued as fully paid up and free from calls and other liability for every [hundred] dollars paid up upon the shares held by him or to which under any contract with the Y Company he may be or become entitled in the capital of the Y Company;

The amalgamated company shall possess and be vested with all the powers, franchises, privileges, assets, rights, credits, effects and property, real, personal and mixed, of whatsoever kind and wheresoever situated, belonging to, possessed by, or vested in each of the amalgamating companies, or to which each may be or become entitled:

The amalgamated company shall become liable for and shall assume, carry out, pay and discharge all the contracts, obligations, debts and liabilities of each of the amalgamating companies, [and the directors of the amalgamated company may make such settlements and compromises as they think fit, and, as the consideration, or part thereof, of such settlements and compromises such directors may agree to issue, and may issue, stock in the capital of the amalgamated company as fully paid up and free from calls or other liability].

Nothing in this agreement contained, or done in pursuance thereof, shall take away or prejudice any claim, demands right, security, cause of action or complaint which any person, corporation or government has against either of the companies parties hereto, nor shall it relieve either of such companies from the payment or performance of any debt, liability, obligation, contract or duty, and no claim, action or proceeding by or against either of the said companies shall abate or be affected by this amalgamation, but for all the purposes of such claim, action or proceeding the amalgamated company may

be substituted therein for the company against which the same may exist;

The by-laws, rules and regulations of the X Company shall, so far as applicable, be the by-laws, rules and regulations of the amalgamated company until repealed, amended, altered or added to by by-laws, rules or regulations of the amalgamated company;

An application shall be made to the Governor General in Council for an order sanctioning this agreement [(n) and upon such order being made, this agreement shall take effect].

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### CONVEYANCE OF RAILWAY.

[For form (o), see conveyance by Windsor and Annapolis Ry. Co. to Dominion Atlantic Ry. Co., in Schedule A to c. 59 of the statutes of Canada of 1900; see also Hull Electric Co. to C.P.R., in Schedule to c. 59 of the statutes of 1899.]

#### LEASE OF RAILWAY.

[For form (o), see lease by Canada Southern Ry. Co. to the Michigan Central R. R. Co., in Schedule A to c. 55 of the statutes of Canada of 1904; Northern Pacific and Manitoba Ry. Co. to the Queen, and the King to the Canadian Northern Ry. Co., in Schedules A and B to c. 53 of the statutes of 1901; and Cincinnati, Saginaw and Mackinaw R. R. Co. to G.T.R., in Schedule to c. 61 of the statutes of 1901.]

#### MORTGAGE OF RAILWAY

##### TO SECURE ITS BONDS.

[For form (o), see mortgage by the Canadian Northern Ry. Co. to trustees, in Schedule B to c. 57 of statutes of Canada of 1899; and Manitoba and South Eastern Ry. Co. to trustees, in Schedule to c. 75 of the statutes of 1899.]

(n) See note (l) on p. 640.

(o) It has been deemed advisable to refer to easily obtained precedents rather than to insert a form which will not be very frequently required.

## TRUST DEED.

CONVEYANCE OF RAILWAY TO TRUSTEES FOR PURPOSES SPECIFIED.

[For form (o), see deeds by the Dominion Atlantic Ry. Co. to trustees, in Schedules B and C to c. 59 of the statutes of Canada of 1900.]

## INTEREST GUARANTY AGREEMENT

BY A RAILWAY COMPANY.

[For form (o), see agreement between the Grand Trunk Western Ry. Co. and G. T. R., in Schedule to c. 60 of the statutes of Canada of 1901.]

## TRAFFIC AGREEMENT

BETWEEN TWO RAILWAY COMPANIES.

[For form (o), see agreement between the Canada Southern Ry. Co., Michigan Central R. R. Co. and Pere Marquette R. R. Co. in Schedule B. of c. 55 of the statutes of Canada of 1904.]

## TRANSFER OF SHARES

IN A RAILWAY COMPANY, UNDER THE RAILWAY  
ACT OF ONTARIO (p).

I, A.B., in consideration of the sum of — paid to me by C.D., hereby do sell and transfer to him — share [or, shares] of the stock of the — Railway Company, to hold to him the said C.D., his heirs, executors, administrators and assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof.

And I, the said C.D., do hereby agree to accept the said — share [or, shares] subject to the same rules, orders and conditions.

WITNESS our hands this — day of — in the year 19—.

(p) R.S.O., c. 207, s. 37, s-s. 2.



## PROXY

TO VOTE AT MEETINGS OF SHAREHOLDERS

UNDER THE RAILWAY ACT OF ONTARIO (q).

I, —, of —, one of the shareholders of the — Railway Company, do hereby appoint — of —, to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the said undertaking that may be mentioned or proposed at any meeting of the shareholders of the said company, in such manner as he, the said —, thinks proper.

IN WITNESS, etc.

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## APPLICATION FOR FARM CROSSING.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

APPLICATION No. — (r).

A. B. of — hereby applies to the Board for an order under section 198 of the Railway Act, 1903, directing the — Railway Company to provide and construct a suitable farm crossing where the company's railway intersects his farm in lot —, concession —, township of —, county of —, province of —, and states:

1. That he is the owner of the land [*or as the case may be, through which the railway of the said company passes*].
2. That by reason of the construction of the said railway he is deprived, [*set out inconvenience caused to applicant, etc.*].
3. That it is necessary for the proper enjoyment of his said land, [*give reasons*].

Dated this — day of — 19—.

[Signed] A.B. [or, C.D. solicitor for A.B.]

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## ENDORSEMENT ON APPLICATION.

THE within application is made by A.B. of — [*state address and occupation*] [or, by C.D. of —, his solicitor].

(q) R.S.O., c. 207, s. 34, s-s. 6.

(r) This number will be filled in by the Secretary of the Board on receipt of the Application.

Take notice that the within named railway company is required to file with the Board of Railway Commissioners, within ten days from the service hereof, its answer to the within application.

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ANSWER BY RAILWAY COMPANY

TO APPLICATION FOR FARM CROSSING.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

IN THE MATTER of the Application No. — of A.B. for an order under section 198 of The Railway Act, 1903, directing the — Railway Company to provide a farm crossing.

The said company in answer to the said application states:

1. That the said A.B. is not the owner, but merely, etc.  
2. That upon the acquisition of the right of way of the said railway, A.B. was duly paid for and released, etc.

3. That the said A.B. has other safe and convenient means, etc.

4. That, etc.

Dated this — day of — 19—.

---

ENDORSEMENT ON ANSWER.

THE within answer is made by A.B. of — [*state address and occupation*], [*or*, by C.D. of —, his solicitor].

Take notice that the within named applicant is required to file with the Board of Railway Commissioners, within four days from the service hereof, his reply to the within answer.

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REPLY TO ANSWER

TO APPLICATION FOR FARM CROSSING.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

IN THE MATTER of the application of A.B. against the — Railway Company.

The said A.B., in reply to the answer of the said company, states that:

1. —.

2. And the said A.B. admits that —.

Dated this — day of — 19—.

[Signed] A.B. [or, C.D. solicitor for A.B.]

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### APPLICATION FOR DEVIATION OF LINE.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. — (s).

THE — Railway Company hereby applies to the Board for an order under section 130 of The Railway Act, 1903, sanctioning the plans, profiles and books of reference submitted in triplicate herewith, showing a proposed deviation of its line of railway as already constructed between — and —, mileage — to —.

Dated this — day of — 19—.

[Signed] A.B.

(s) This number will be filled in by the Secretary of the Board on receipt of the Application.

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# RELEASES.

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## GENERAL RELEASE

OF ALL DEMANDS.

KNOW ALL MEN by these presents that I, —, of —, [in consideration of —] do hereby remise, release and forever discharge — of —, his heirs, executors and administrators, of and from all manner of actions, causes of action, debts, accounts, covenants, contracts, claims and demands whatsoever which against the said — I ever had, now have, or which my heirs, executors, administrators or assigns, or any of them, hereafter can, shall or may have for or by reason of any cause, matter or thing whatsoever existing up to the present time.

IN WITNESS whereof I have hereunto set my hand and seal this — day of — 19—.

SIGNED, SEALED, etc.

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## MUTUAL RELEASE

BY THREE PERSONS.

THIS INDENTURE made this — day of — 19—, between A.B. of —, C.D. of —, and E.F. of —.

WITNESSETH that [in consideration of —] every one and every two of them, the said A.B., C.D. and E.F. doth and do hereby release the others, and each of them, their and each of their heirs, executors, administrators and assigns, and their and each of their estates and effects, from all sums of money, accounts, contracts, agreements, covenants, bonds, actions, proceedings, claims and demands whatsoever, which any one or any two of them, the said A.B., C.D. and E.F., now hath or have against the others, or either of them, for or by reason or in respect of any act, matter, cause or thing whatsoever, up to and including the day of the date of these presents.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## RELEASE TO EXECUTOR

## OR ADMINISTRATOR.

KNOW ALL MEN by these presents that I, —, of —, do hereby acknowledge that I have this day had and received of and from — of —, executor [*or, administrator*] of the estate and effects of —, late of —, deceased, the sum of — dollars in full satisfaction and payment of all moneys due to me, one of the [children] of the said —, deceased, as my distributive share of the estate of the said —, and therefore I, the said —, do by these presents remise, release, quit claim and forever discharge the said —, executor [*or, administrator*] as aforesaid, his heirs, executors and administrators, of and from any claim for the said distributive share.

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## RELEASE TO ADMINISTRATORS

## BY ADULT HEIR.

THIS INDENTURE made the — day of — 19—, between A.B. of —, of the first part, and C.D. and E.F. of —, the administrators of the estate of X.Y., late of —, deceased, of the second part.

WHEREAS the said X.Y. died on or about the — day of — 19—, intestate.

AND WHEREAS the parties of the second part were duly appointed administrators of the estate of the said A.B. by the [Surrogate Court of the county of —].

AND WHEREAS, pursuant to an order of the judge of the said court, the administrators have brought in and passed their accounts in the said court.

AND WHEREAS it appears by the order of the said court that the whole sum in the hands of the administrators for distribution among the persons entitled thereto as heirs of the said X.Y. is the sum of — dollars together with subsequent interest on a portion thereof, which interest amounts to — dollars.

AND WHEREAS under the Devolution of Estates Act the widow of the said intestate is entitled to — dollars, and interest thereon at — per cent per annum from the date of the death of the said intestate, and to [one-half] of all the residue

of the said estate, which makes the share of the said widow therein — dollars, and leaves the amount thereof for distribution among the other heirs of the said intestate the sum of — dollars.

AND WHEREAS the party of the first part is a [brother] of the said intestate and is therefore entitled to a [one-tenth] share of the said sum of — dollars.

AND WHEREAS the said administrators have paid to the party of the first part the sum of — dollars.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum so paid by the parties of the second part to the party of the first part, the party of the first part hereby releases the parties of the second part, and each of them, from all actions, claims and demands whatsoever for, or in respect, or on account of the real and personal estate of the said intestate and the rents, profits and income thereof respectively, or any part or parts thereof, or any act, deed, matter or thing whatsoever done or omitted to be done by the parties of the second part, or either of them, in or about the administration of the said estate or in any wise relating to the premises.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### RELEASE BY LEGATEE

#### OF LEGACY CHARGED ON LAND.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the releasor, of the first part, and — of —, hereinafter called the releasee, of the second part.

WHEREAS one —, late of the — of — in the county of —, —, died seised of the lands hereinafter mentioned, having first made his last will and testament, whereby he devised the lands hereinafter mentioned to the releasee, subject to a legacy of — in favour of the releasor.

AND WHEREAS the releasee has paid and satisfied the said legacy and all claims of the releasor against the said lands, and has requested the execution of these presents to evidence such payment.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum of one dollar now paid by the releasee to the releasor, the receipt whereof is hereby acknowledged, the releasor doth grant and release unto and to the use of the releasee, his heirs, executors, administrators and assigns, all that certain parcel of land, situate, etc.

To hold unto and to the use of the releasee, his heirs, executors, administrators and assigns, freed and discharged from all claims of the releasor to the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### RELEASE OF DOWER

BY WIFE.

THIS INDENTURE made the — day of — 19—, between A.B., of the — of — in the county of —, wife of E.B., of the same place, —, of the first part; the said E.B., of the second part; and C.D., of the third part.

WHEREAS the party of the second part, the present husband of the party of the first part, by an indenture dated the — day of — 19—, for the consideration therein mentioned, did grant and convey to —, therein described, his heirs and assigns, all that certain parcel of land, situate, etc.

AND WHEREAS the party of the first part did not join in the execution of the said indenture for the purpose of barring her dower in the said lands, and she hath, at the request of the party of the third part, agreed to execute these presents by and with the full consent of the party of the second part, testified by his execution hereof.

NOW THIS INDENTURE WITNESSETH that the party of the first part, in consideration of the premises [and of the sum of — dollars to her paid by the party of the third part, the receipt whereof is hereby acknowledged], doth hereby grant and release unto the party of the third part, his heirs and assigns, all her dower and right and title thereto which she, the party of the first part, now hath, or, in the event of her surviving her said husband, the party hereto of the second part, may have in the

said lands, or can, or may, or could, or might hereafter have or claim in any wise howsoever in, to or out of the said lands.

To have and to hold unto the party of the third part, his heirs and assigns, forever.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### RELEASE OF DOWER

BY WIDOW.

THIS INDENTURE made the — day of — 19—, between A.B., of the — of — in the county of —, widow of E.B., late of the same place, deceased, of the first part, and C.D., of the — of — in the county of —, —, of the second part.

WHEREAS the said E.B. by indenture dated the — day of — 19—, for the consideration therein mentioned, did grant and convey to —, therein described, his heirs and assigns, all that certain parcel of land, situate, etc.

AND WHEREAS the said E.B. died on or about the — day of — 19—, leaving his wife, the party of the first part, him surviving.

AND WHEREAS the party of the first part, the wife of the said E.B., did not join in the execution of the said indenture, and at the request of the party of the second part she hath agreed to execute these presents for the purpose of releasing her dower in the lands hereinbefore described.

NOW THIS INDENTURE WITNESSETH that the party of the first part, in consideration of the premises [and of the sum of — dollars to her paid by the party of the second part, the receipt whereof is hereby acknowledged], doth grant, release and quit claim unto the party of the second part, his heirs and assigns, all her dower and right and title thereto which she, the party of the first part, now hath in the said lands, or can, or may, or could, or might hereafter have or claim in any wise howsoever in, to or out of the said lands.



To have and to hold unto the party of the second part, his heirs and assigns, forever.

IN WITNESS, etc.

SIGNED, SEALED, etc.

#### ELECTION BY WIDOW

TO TAKE A DISTRIBUTIVE SHARE OF HUSBAND'S ESTATE (a).

KNOW ALL MEN by these presents that I, —, of —, widow of —, late of the — of —, now deceased, do hereby, under and by virtue of the fourth section of the Devolution of Estates Act (b), elect to take my interest as widow in the hereinafter mentioned lands in lieu of all claims to dower in respect of real estate of which my said husband was at any time seised, or to which at the time of his death he was beneficially entitled.

The lands hereinbefore mentioned and referred to are all that certain parcel of land, situate, etc.

WITNESS (c) my hand and seal (d) this — day of — 19—.

SIGNED, SEALED, etc.

#### ELECTION BY WIDOW

TO TAKE DOWER INSTEAD OF DISTRIBUTIVE SHARE OF HUSBAND'S ESTATE (e).

KNOW ALL MEN by these presents that I, —, of —, widow of —, late of the — of —, now deceased, do hereby elect to take my dower, as widow of the said —, in the lands hereinafter mentioned instead of my interest in my said husband's undisposed of real estate under the fourth section of the Devolution of Estates Act (b).

The lands hereinbefore mentioned and referred to are all that certain parcel of land, situate, etc.

WITNESS my hand and seal this — day of — 19—.

SIGNED, SEALED, etc.

(a) R.S.O., c. 127, s. 4, s-s. 2.

(b) R.S.O., c. 127.

(c) One witness at least is required.

(d) The statute makes it optional whether the instrument be under seal or not.

(e) See previous form.

## RELEASE OF EQUITY OF REDEMPTION.

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Conveyances, between — of the — of — in the county of —, —, hereinafter called the grantor, of the first part, [—, his wife, of the second part], and — of the — of — in the county of —, —, hereinafter called the grantee, of the [third] part.

WHEREAS by a mortgage dated the — day of — 19—, [*name of original mortgagor*] mortgaged to — the lands hereinafter described for securing payment of the sum of — dollars and interest as therein mentioned [*If the mortgage has been assigned, add,* AND WHEREAS by indenture dated the — day of — 19—, the said mortgage was assigned to the grantee, *or as the case may be*].

AND WHEREAS the grantor, at the request of the grantee and for the consideration hereinafter mentioned, has agreed to release the equity of redemption to the grantee.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the grantee to the grantor (the receipt whereof is hereby acknowledged), the grantor hereby grants and releases unto the grantee, in fee simple, all that certain parcel of land, situate, etc., and all his estate, right, title, interest and equity of redemption therein.

To hold unto and to the use of the grantee, his heirs and assigns.

The grantor covenants with the grantee that he has the right to convey the said lands to the grantee notwithstanding any act of the grantor, and that the grantee shall have quiet possession of the said lands free from all encumbrances. And the grantor covenants with the grantee that he will execute such further assurances of the said lands as may be requisite, and that the grantor has done no act to incumber the said lands. And the grantor releases to the grantee all his claims upon the said lands [and the said —, wife of the grantor, hereby bars her dower in the said lands].

IN WITNESS, etc.

SIGNED, SEALED, etc.

## RELEASE OF PART OF MORTGAGED LANDS.

THIS INDENTURE made the — day of — 19—, between — of —, hereinafter called the mortgagee, of the first part, and — of —, hereinafter called the mortgagor, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, and registered in the Registry Office for the county of — on the — day of — 19—, as number —, the mortgagor mortgaged to the mortgagee, to secure — dollars and interest as therein mentioned, all that certain parcel of land, situate, etc.

AND WHEREAS the mortgagor has applied to the mortgagee for a release from the said mortgage of that part of the said mortgaged lands hereinafter mentioned.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the mortgagor to the mortgagee in repayment and satisfaction of so much of the said mortgage debt, the receipt whereof he doth hereby acknowledge, the mortgagee doth grant and release unto the mortgagor in fee simple all that certain parcel of land, situate, etc.

To hold unto and to the use of the mortgagor, his heirs and assigns, freed and discharged from the said mortgage. Reserving nevertheless and without prejudice to the rights of the said — as mortgagee of those parts of the said lands remaining unreleased, which are hereby declared to be and stand charged with the balance of the moneys remaining unpaid upon the said mortgage; and reserving and without prejudice to the rights and priorities of the mortgagee as against all subsequent encumbrancers and other persons whomsoever interested in the said lands unreleased, and not parties hereto, and the rights of such persons.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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## RELEASE OF PART OF MORTGAGED LANDS

(Another form.)

BY A COMPANY.

THIS INDENTURE made the — day of — 19—, between The — Company, (hereinafter called the Company,) of the first

part, and — of —, hereinafter called the mortgagor, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, and registered in the registry office for the county of — on the — day of — 19—, as number —, the mortgagor, for the consideration therein mentioned, conveyed to — [or, to the — corporation (f)] the lands hereinafter released, together with other lands, to secure the sum of — dollars as therein mentioned.

[AND WHEREAS, under and by virtue of chapter — of the statutes of 19— of the [legislature of the province of —,] intituled "An Act respecting the — Company," all the assets and powers of the said corporation were transferred to and vested in the company.]

AND WHEREAS the company has, for the consideration hereinafter mentioned, agreed to release the lands hereinafter described from the said mortgage security.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars now paid by the mortgagor to the company (the receipt whereof is hereby acknowledged) the company doth grant, convey and release to the mortgagor, his heirs, executors, administrators and assigns, all that certain parcel of land, situate, etc.

To hold unto the mortgagor, his heirs and assigns, to and for his and their sole and only use for ever; freed and absolutely acquitted, exonerated and discharged of and from the said mortgage, and the principal money and all payments thereby secured, and every proviso, covenant, matter and thing therein contained.

Provided that nothing herein contained shall affect the said mortgage, or its validity, so far as regards the unreleased portion of the said lands, or any part thereof.

IN WITNESS whereof the company has hereunto caused to be set its corporate seal.

SIGNED, SEALED, etc.

(f) These words refer to the paragraph within brackets below.

## RELEASE AS TO SURPLUS

## AFTER SALE UNDER POWER.

THIS INDENTURE made the — day of — 19—, between — of —, —, of the first part, and — of —, —, hereinafter called the mortgagee, of the second part.

WHEREAS by a mortgage dated the — day of — 19—, one —, of the — of — in the county of —, —, did mortgage unto the mortgagee all that certain parcel of land situate, etc., for securing payment of — dollars, with interest as is in the said mortgage provided.

AND WHEREAS, default having been made in payment of the moneys secured by the said mortgage, the mortgagee, under the power of sale in the said mortgage, sold the said lands for the sum of — dollars.

AND WHEREAS after deducting from the last mentioned sum the claim of the mortgagee under the said mortgage there still remains in the hands of the mortgagee the sum of — dollars.

AND WHEREAS the mortgagee has paid the last mentioned sum to the party of the first part, who claims to be entitled thereto.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises and of the said sum of — dollars now paid by the mortgagee to the party of the first part (the receipt whereof is hereby acknowledged) the party of the first part doth hereby release, acquit and for ever discharge the mortgagee from all claims, demands, suits, actions, reckonings and accounts in respect of the said mortgaged property, and of the rents and profits thereof, and of all the moneys realized by the mortgagee from the sale of the said mortgaged property or otherwise in connection therewith; the party of the first part hereby confirming the said sale and all acts and deeds of the mortgagee in connection with the said mortgaged property, so far as they might affect the party of the first part. And the party of the first part covenants with the mortgagee that the party of the first part is entitled to the said surplus.

IN WITNESS, etc.

SIGNED, SEALED, etc.

# SETTLEMENTS.

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## SETTLEMENT OF PERSONAL ESTATE

FOR BENEFIT OF HUSBAND AND WIFE SUCCESSIVELY FOR LIFE,  
AND AFTER DEATH OF SURVIVOR, TO ISSUE.

THIS INDENTURE made the — day of — 19—, between A.B. of — [*intended husband*], of the first part; C.D. of — [*intended wife*], of the second part; and E.F. of —, and G.H. of —, hereinafter called the trustees, of the third part.

WHEREAS a marriage is intended shortly to be solemnized between the said A.B. and the said C.D.

AND WHEREAS the said A.B. has, before his execution of these presents, transferred [— shares of stock of the — Bank] into the names of the said E.F. and G.H., and has assigned [— shares of the — Company of the present value of — dollars per share] unto the said E.F. and G.H.

NOW THIS INDENTURE WITNESSETH that, in consideration of the said intended marriage, it is hereby agreed and declared that the said E.F. and G.H. shall stand possessed of the said stock and shares in trust for the said A.B until the said intended marriage; and, after the said intended marriage,

*To retain or change present investments.*

In trust that the trustees shall either retain the same, or with the consent in writing of the said A.B. and C.D. during their joint lives, and of the survivor of them during his or her life, and after the decease of such survivor at the discretion of the trustees, sell the same, and invest the moneys produced by such sale in any investments which they deem reasonable and likely to return a fair annual income, but not limited to investments expressly authorized by law, with power from time to time with such consent or at such discretion as aforesaid to re-invest the proceeds thereof, or any part thereof, in similiar securities, and shall stand possessed of the said stock and shares

and the investments for the time being representing the same (hereinafter called the trust funds,)

*To pay income to husband and wife successively for life, and then to issue.*

In trust to pay the income thereof to the said A.B. during his life, and after his decease to the said C.D. during her life, and after the decease of the survivor of the said A.B. and C.D. in trust for such child, children, or remoter issue of the said intended marriage, at such age or time, or ages or times (not being earlier as to any object of this power than his or her age of twenty-one years or day of marriage), in such shares, if more than one, upon such conditions, and in such manner as the said A.B. and C.D. shall by any deed or deeds jointly appoint. And in default of such appointment, and so far as any such appointment shall not extend, then as the survivor of them, the said A.B. and C.D., shall by any deed or deeds, or by his or her will, appoint; and in default of such appointment, and so far as any such appointment shall not extend, in trust for all the children of the said intended marriage who, being sons, shall attain the age of twenty-one years, or, being daughters, shall attain that age or marry under that age, in equal shares; and if there shall be but one such child, then the whole to be in trust for that one child.

*Hotchpot.*

But so, nevertheless, that no child who, or any of whose issue, shall take any part of the trust funds under any such appointment as aforesaid shall be entitled to any share of the unappointed part of the trust funds, without bringing the share or shares appointed to him or her or to his or her issue into hotchpot, and accounting for the same accordingly, unless the person or persons making such appointment shall thereby direct the contrary. And if there shall be no child of the said intended marriage, who, being a son, shall attain the age of twenty-one years, or, being a daughter, shall attain that age or marry under that age, then in trust for the said A.B. absolutely.

*Advancement.*

And it is further declared that the trustees may at any time or times, with the consent in writing of the said A.B. and

C.D. during their joint lives, and of the survivor of them during his or her life, and, after the decease of such survivor, at the discretion of the trustees, raise any part or parts not exceeding together one moiety of the vested or expectant share of any child or remoter issue of the said intended marriage under these presents, or under any such appointment as aforesaid, and may apply the same for his or her advancement, preferment or benefit as the trustees shall think fit.

*Investments.*

And it is further declared that all moneys liable to be invested under these presents shall be invested in such securities as are authorized by law for trust funds. [See also *investments mentioned on p. 621.*]

*Solicitor-trustee.*

And it is further declared that the trustees may, if they think fit, instead of acting personally, employ and pay a solicitor, or any other person, to transact any business or do any act required to be done in connection with the trust, including the receipt and payment of money, and that any trustee of these presents being a solicitor, or other person engaged in any profession or business, may be so employed and shall be entitled to charge and be paid all professional and other charges for any business or act done by him in connection with the trust, including any act which a trustee, not being a solicitor or other person engaged as aforesaid, could have done personally.

*Event of marriage not taking place.*

Provided always that if the said intended marriage shall not be solemnized within twelve calendar months from the date hereof these presents shall be void, and the stocks and shares hereby settled shall be re-transferred to the said A.B.

*Who may exercise powers.*

And provided that the powers hereinbefore given to the trustees may be exercised by the survivors and survivor of them, and the executors and administrators of such survivor.

IN WITNESS, etc.

SIGNED, SEALED, etc.



## SETTLEMENT OF PERSONAL ESTATE.

*(Short form.)*

THIS INDENTURE made the — day of — 19—, between A.B., of the — of — in the county of —, [bachelor], of the first part; C.D., of the — of — in the county of —, [spinster], of the second part; and E.F., of —, and G.H., of — [trustees], of the third part.

WITNESSETH that in consideration of an intended marriage between the said A.B. and C.D., it is agreed as follows:

The said E.F. and G.H. shall hold — dollars transferred into their names by the said — [and the lease of — at — in the county of —, assigned to them, by the said — by an indenture of even date herewith], upon trust that they and the survivor of them, his executors and administrators, or their or his assigns, after the said marriage, and during the joint lives of the said parties, shall pay the income of the trust property to the said C.D. for her sole and separate use (and without power of anticipation), and after the death of either of them, the said A.B. or C.D., to the survivor during his or her life.

Subject to the foregoing trusts, the premises shall be held upon trust for such children or child of the marriage, and in such manner as the said parties shall by deed appoint; and so far as there shall be no such appointment, then as the survivor shall by deed, will, or codicil appoint; and, so far as the same shall be unappointed, in trust for the children of the marriage equally (or child, if but one), who shall attain twenty-one, or (being a daughter or daughters) shall marry, but so that no child shall take an unappointed share without bringing his or her appointed share into account.

And on failure of the foregoing trusts upon trust for the party of the first part, his executors and administrators.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## CONVEYANCE TO TRUSTEES

TO SELL AND HOLD THE PROCEEDS OF REAL ESTATE ON THE  
TRUSTS OF A COLLATERAL SETTLEMENT.

THIS INDENTURE made the — day of — 19—, between A.B., of — [*intended husband*], of the first part; C.D. [*intended wife*], of the second part; and E.F., of —, and G.H., of —, hereinafter called the trustees, of the third part.

WITNESSETH that, in consideration of a marriage intended shortly to be solemnized between the said A.B. and the said C.D., the said A.B. hereby grants and conveys unto the said E.F. and G.H. all that certain parcel of land, situate, etc.

To hold the said land unto and to the use of the trustees in fee simple, in trust for the said A.B. in fee simple until the said intended marriage, and, after the said marriage, upon trust that the trustees shall, upon the request of the said A.B. during his life, and after his decease upon the request in writing of the said C.D. during her life, and after the decease of the survivor of them, the said A.B. and C.D., at the discretion of the trustees, sell the said lands, and shall receive the moneys which shall arise from any such sale as aforesaid, and after paying and retaining thereout the costs and expenses attending such sale shall stand possessed of the residue of the said moneys, upon such trusts and with and subject to such powers and provisions as are expressed and declared concerning the same by an indenture bearing even date herewith, and made between [*recite parties*].

And upon further trust that in the meantime, and until such sale as aforesaid, the trustees shall permit the rents and profits of the said hereditaments to be received by the said A.B. during his life; and after his decease by the said C.D. during her life, and so that each of them, the said A.B. and C.D., while entitled to receive the rents and profits as aforesaid, shall have all the rights and privileges of a tenant for life, without impeachment of waste, and after the decease of the survivor of the said A.B. and C.D. shall stand possessed of the said rents and profits upon the trusts declared concerning the same by the indenture above referred to.

Provided also, and it is hereby further agreed, that the said income, in case it shall be payable to the said A.B. for his own benefit, shall be paid to him as aforesaid unless or until he shall become bankrupt or shall assign, charge or encumber the said income or shall do or suffer something whereby it or some part thereof would, through his act or default or by operation or process of law if belonging absolutely to him, become vested in or become payable to some other person or persons, and upon the occurring of any such event, and so long as the effect and operation thereof shall continue, the said income, or so much thereof as the trustees shall think proper, shall be payable to or expended by the trustees for the benefit of the issue of the said marriage, if any, or one or more of them, in such manner and upon such conditions as the trustees may deem advisable, or if no such issue then as herein provided, and so on until the cause for the said income ceasing to be payable to the said A.B. shall have ceased to exist or to be effectual or operative and then his rights to receive the said income shall revive, and it shall be payable to him as aforesaid unless or until the like event or any such event as aforesaid shall happen again whereby the said income or some part thereof would, if belonging absolutely to him, become vested in or payable to some other person or persons, whereupon it shall no longer be payable to him but shall again become and be payable to or expended for the said issue, if any, or one or more of them as aforesaid, or if no such issue then as herein provided until the cause for the said income ceasing to be payable to the said A.B. shall have ceased to exist or be effectual or operate in the manner or to the like effect as above mentioned, and then the right to pay the said A.B. the said income shall revive, and it shall be payable to the said A.B. as aforesaid, and so on from time to time whensoever and so long as any such events shall occur and the effect and operation thereof continue or discontinue as aforesaid. And if there be no such issue, then the said income which would in the events aforesaid be payable to such issue, if any, shall be payable to *[name another beneficiary]*.

And the party of the first part, for himself, his heirs, executors and administrators, covenants with the trustees that he will from time to time, but at the costs of the trustees, make

and execute such further assurances of the said lands as by the trustees shall reasonably be required.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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### APPOINTMENT OF REAL ESTATE

UNDER A POWER IN A MARRIAGE SETTLEMENT, TO A SON IN FEE  
WITHOUT PREJUDICE TO LIFE ESTATE.

KNOW ALL MEN by these presents, that whereas by an indenture dated the — day of — 19—, certain lands and tenements were conveyed to the trustees therein named in trust from and after the solemnization of the then intended marriage, to the use of me, — of —, during my life, with remainder to the use of —, my intended wife, during her life; with remainder to the use of such one or more of the children of the said intended marriage, in such parts, shares and proportions as I and my said intended wife should, by deed, jointly appoint; and in default of such appointment, then as the survivor should by deed or will appoint; and whereas my said wife died on the — day of — 19—, and the said joint power of appointment was never exercised.

AND WHEREAS there were issue of the said marriage — children only, that is to say — and —; and whereas I am desirous of making such appointment as is hereinafter contained.

NOW THESE PRESENTS WITNESS that in exercise and execution of the power given to me by the said indenture, and of every other power in any wise enabling me in that behalf, I hereby irrevocably appoint that all the said lands and tenements which now are by any means whatsoever subject to the uses of the said indenture shall, subject and without prejudice to the life estate limited to me by the said recited indenture, henceforth go and remain to the use of —, one of the said children.

To have and to hold to him, his heirs and assigns, forever.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## DISCLAIMER BY TRUSTEE

## OF TRUST UNDER A SETTLEMENT (a).

KNOW ALL MEN by these presents that I, A.B., of — (who am named as a party to and trustee of the above written indenture), hereby declare that I have not accepted the trusteeship, nor acted in any manner as a trustee thereof. And I disclaim the said trusteeship and all estates, interest and powers by the said indenture expressed to be vested in me.

IN WITNESS, etc.

(a) To be written at the foot of the settlement.

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## SHIPPING.

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For facility of alienation, etc., a ship is divided into sixty-four parts or shares, any one or all of which may be sold or mortgaged. A fraction of a share cannot be transferred. A number of persons may be registered as joint owners of one share, and not more than 64 individual owners of a ship may be registered.

Every British ship must be registered at a Port of Entry, and while all other ships are not required to be registered, it is by registration that the privileges of a British ship are acquired. The prompt registration of a mortgage at the port of registry of the ship is essential to the security of the mortgagee, as a mortgage takes its priority from the date of production for registry, not from the date of the instrument.

A description of the ship and engines (if any) prepared by a surveyor of shipping as directed by the Merchants' Shipping Act (*a*) must be inserted in all bills of sale and mortgages of ships.

The forms of Bill of Sale and Mortgage, being, for the most part long and complicated schedules (*b*), are inconvenient to insert in a book of forms, and are therefore omitted. These forms will be found in the Act (*a*): They may also be obtained from law stationers, and are supplied gratis at customs Ports of Entry.

The forms of Bill of Sale, Mortgage and Transfer of Mortgage are subject to alteration from time to time by the British Commissioners of Customs with the consent of the Board of Trade (M. S. Act, 1894, p. 336).

A Bill of Sale, when registered, must be accompanied by a Declaration of Ownership, to be filed. Forms of these declarations are supplied by the Customs authorities.

(*a*) The Merchants' Shipping Act, 1894 (Imperial), bound with the statutes of Canada of the year 1895.

(*b*) The schedules merely contain a description of the vessel. The tonnage set out is for the purpose of fixing dues, etc.

## AGREEMENT FOR SALE OF A SHIP.

AGREEMENT made this — day of — 19—, between — of the — of — in the county of —, —, hereinafter called the first party, and — of the — of — in the county of —, —, hereinafter called the second party.

WHEREAS the first party is the owner of [forty-four] shares of the ship "—," and the second party is the owner of [twenty] shares of the said ship.

AND WHEREAS the first party has agreed to sell the said [forty-four] shares to the second party under the terms and conditions and for the consideration hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual promises, covenants and agreements herein contained, the parties hereto, each for himself, his heirs, executors and administrators, covenant, promise and agree to and with the others of them, his heirs, executors, administrators and assigns, as follows:

1. The first party shall sell and convey to the second party [forty-four] shares of the ship "—," a [British] ship registered at —, in the Province of —, and of which the official number is —, for the sum of — dollars, payable as follows, in instalments of — dollars each on the first days of — and — 19—.

2. Upon the execution and delivery of a bill of sale of the said [forty-four] shares of the said ship the second party shall forthwith execute a mortgage of the said [forty-four] shares to secure the payment of the aforesaid instalments of the purchase money.

3. If the instalments of purchase money hereinbefore provided shall not be paid at the time agreed therefor all such instalments in arrears shall bear interest at the rate of — per cent per annum until fully paid and satisfied.

4. The first party covenants with the second party that the aforesaid shares of the said ship are unencumbered and not subject to any liens or charges in any way whatever.

5. The second party shall assume, satisfy and discharge all accounts owing for or on account of provisions, supplies or of

any nature whatever in any way connected with the running expenses and management of the said ship.

6. The second party shall insure the said ship against fire in the sum of — dollars in a fire insurance company approved of by the first party, and shall pay all premiums for such insurance. The loss on every policy shall be payable to the first party.

7. If the second party shall not deliver to the first party an interim receipt for payment of the premium on such policy at the time of delivery of the mortgage of the said ship as hereinbefore provided, or thereafter at least [three] days before the termination of the said policy, or any subsequent policy, while any of the moneys secured by the said mortgage or interest thereon remains unpaid, the first party may insure the said ship, and the premiums paid by the first party, together with interest thereon at the rate of — per cent per annum until the full amount thereof is paid, shall be a charge upon the said ship.

8. The terms of this agreement, in so far as they are applicable, shall be read and construed with the aforesaid mortgage as a part thereof.

IN TESTIMONY, etc,

SIGNED, SEALED, etc.

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#### BILL OF SALE OF SHIP.

[See p. 665.]

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#### MORTGAGE OF SHIP.

[See p. 665.]

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#### TRANSFER OF MORTGAGE.

TO BE ENDORSED ON ORIGINAL MORTGAGE.

I, —, the within-mentioned —, in consideration of — this day paid to me by —, hereby transfer to him the — benefit of the within written security.



IN WITNESS whereof I have hereunto subscribed my name  
and affixed my seal this — day of — 19—.

EXECUTED by the above named — }  
in the presence of }

#### CHARTER PARTY.

THIS CHARTER PARTY made the — day of — 19—,  
between — of — [owner of the ship or vessel called "—"  
of —, of the burden of — tons, or thereabouts, register  
measurement, now lying in the harbour of —], of the first part,  
and — of — [merchant], of the second part.

WITNESSETH that the party of the first part in consideration  
of the covenants and agreements hereinafter mentioned, to be  
paid and performed by the party of the second part, doth hereby  
covenant and agree on the freighting and chartering of the said  
vessel unto the party of the second part for a voyage to be made  
from — to — [or, for a term of — from the date hereof]  
on the following terms, that is to say:

The party of the first part warrants that the said vessel  
shall, during the said voyage [or, term], be kept sea-worthy, and  
in every respect fit for the voyage, and provided with every  
requisite, and with a sufficient crew and provisions.

The party of the first part agrees that the whole of the said  
vessel (with the exception of the cabin and the necessary room  
for the accommodation of the crew and the stowage of sails,  
cables and provisions) shall be at the sole use and disposal of the  
party of the second part during the said voyage, and that no  
goods or merchandise whatsoever shall be loaded on board  
otherwise than from the party of the second part, or his agent,  
without his consent, on pain of forfeiture of the amount of  
freight agreed upon for the same.

The party of the first part agrees to take and receive on  
board the said vessel during the aforesaid voyage [or, term]  
all such lawful goods and merchandise as the party of the second  
part, or his agent, may think proper to ship.

That the party of the second part shall pay to the party of  
the first part, at —, within — days after the arrival of

the said vessel at the said port [*or, at the end of the said term, or as may be agreed upon*], — dollars in full for the hire of the said vessel, and shall also pay, as they fall due, the expenses of victualling and manning the same, and all port charges and piloting that may be due thereon.

[*When the vessel is chartered for a voyage only, add: And it is further agreed between the parties hereto that the party of the second part shall be allowed — days for loading at the port of —, and — days for discharging and reloading at the port of — [and — days for final discharge at the port of —], exclusive in each case of Sundays and legal holidays, and commencing in each case from the time that notice is given by the party of the second part, or his agent, of the readiness of the vessel to receive or discharge the cargo. For every additional day of detention of the vessel for these purposes the party of the second part shall pay to the party of the first part — dollars.*]

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### MARINE PROTEST.

By public instrument of protest hereinafter contained, be it known and made manifest to all whom it doth or shall or may concern, that on the — day of — 19—, before me, a notary public, by royal authority duly appointed, in and for the province of —, residing at — in the county of — in the said province, personally appeared —, master of the [*name of vessel*], of — tons burthen, of the port of —, and brought with him —, [mate] on board of the said vessel “—,” who did severally, duly and solemnly declare and state as follows, that is to say:

That these appearers and the rest of the crew of the said vessel set sail in her from — on the — day of — last, bound on her voyage from thence to —, laden with a cargo of —, the vessel being then tight, staunch and strong, well manned, victualled and sound and in every respect fit to perform the said intended voyage.

That[set out narrative by the master and crew of the particulars of the voyage, storms or bad weather which the vessel encountered, the accidents which occurred and compelled them, if at an intermediate port, to resort to it, and the conduct which in cases of emergency it was thought proper to pursue].

And these appearers, — and —, further declare that on the — day of — 19—, they appeared at the office of the said notary and caused their protest to be duly noted.

And these appearers do protest, and I, the said notary, do also protest against the aforesaid bad weather, gales, storms, accidents and occurrences, and against all and every matter and thing had and met with as aforesaid, and all loss or damage occasioned thereby.

We, — and —, do solemnly and sincerely declare that the foregoing statement is correct and contains a true account of the facts and circumstances. And we make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act, 1893.

Thus declared and protested in due form of law at the office of me, the said notary, at —, the day and year first above written.

#### NOTARIAL CERTIFICATE

##### OF MARINE PROTEST.

I, —, of the — of — in the county of —, a notary public, by royal authority duly appointed, in and for the province of —, do hereby certify that the foregoing is a true copy of the declaration and protest of —, master, and —, mate [or as the case may be], of the vessel "—," taken before me the — day of — 19—, and now filed in my office.

IN TESTIMONY whereof I have hereunto set my hand and affixed my notarial seal this — day of — 19—.

—,  
A Notary Public.

# WILLS.

## THE WILLS ACT, ONTARIO.

(R.S.O., c. 128.)

### GENERAL DIRECTIONS CONCERNING WILLS.

A testator must be of sound mind, and twenty-one years of age (s. 11). A will must be in writing, and signed at the foot or end thereof by the testator (person making the will), or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and subscribe the will in the presence of the testator; but no form of attestation shall be necessary (s. 12).

Any alterations made in a will after its execution must be attested by the signature or initials of the testator and the two witnesses. Such attestation may be made by writing the initials of the testator and the two witnesses in the margin of the will opposite the alteration (s. 23).

No person taking any benefit under a will should be a witness, for, although the will would not be affected thereby, yet a gift to an attesting witness or to the husband or wife of such witness is void (s. 17). An executor may be a witness (s. 19), but as any legacy to him would then be void (s. 17) it is better that he should not be a witness.

A will speaks from death only (s. 26). Property acquired by the testator subsequently to the date of the will, but owned by him at the time of his death, may be disposed of by will (s. 10).

A will made by a person dying after April 12th, 1897, is revoked by the subsequent marriage of the testator, except (a) where it is declared in the will that the same is made in contemplation of such marriage [For clause, see p. 674]; (b) where the wife or husband of the testator elects to take under the will,

by an instrument in writing signed by the wife or husband and filed within a year of the testator's death in the office of the surrogate clerk at Toronto; (c) where the will is made in the exercise of a power of appointment, under certain circumstances (s. 20). A will is also revoked (i) by another will or codicil properly executed; (ii) by some writing declaring an intention to revoke the will, and executed in the same manner as a will; or (iii) by the testator, or some person in his presence and by his direction, burning, tearing or otherwise destroying it, with the intention of revoking it (s. 22).

In Ontario, when an estate of greater value than \$10,000 passes by will it is liable, except in a few cases, to a succession duty (*a*), which varies in amount according to the value of the estate. If a testator desire that this duty should not be deducted from any particular legacy, but be paid out of his general estate, or otherwise, insert in the bequest or devise the words "free from succession duty," or words to that effect.

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## WILL

### GIVING EVERYTHING TO ONE PERSON AND APPOINTING HIM SOLE EXECUTOR.

THIS is the last will and testament of me, A.B., of the ——— of ——— in the county of ———, ———, I hereby revoking all former wills.

I DEVISE AND BEQUEATH and appoint all the real and personal estate (*b*) which I am seised or possessed of or entitled to or over which I have any power of appointment to ———, and appoint him [*or, her*] the sole executor [*or, executrix*] of this my will.

IN WITNESS whereof I have set my hand this ——— day of ——— 19—.

(*a*) The Succession Duty Act, R.S.O., c. 24; Ont. 1905, c. 6, s. 6.

(*b*) In *Thorne v. Thorne* (39 C.L.J., 361) it was held that a devise of "all my real estate and property whatsoever, and of what nature and kind soever," does not include a debt due by the devisee to the testator.

SIGNED, published and declared by the above-named A.B., testator [or, testatrix], as and for his [or, her] last will and testament, in the presence of us both present at the same time, who, at his [or, her] request, and in his [or, her] presence, have hereunto subscribed our names as witnesses.

[Signature of testator.]

[Signatures of two witnesses.]

# WILL

EVERYTHING TO WIFE FOR LIFE AND THEN TO CHILDREN.

THIS is the last will and testament of me, A.B., of the — in the county of —, —, I hereby revoking all former wills at any time made by me.

I appoint C.D., of —, and E.F., of —, hereinafter called "my trustees," to be the executors and trustees of this my will; and I appoint my wife during her life, and after her death my trustees, to be the guardian and guardians of my infant children.

I give all my property unto my trustees in trust to convert the same into money, and invest the proceeds in any investments authorized by law for trust funds, with power to vary such investments at their discretion; and to pay the income of the proceeds to my wife during her life, and after her death to divide the corpus equally among all my children who, being sons, attain the age of twenty-one years, or, being daughters, attain that age or marry, with power for my trustees, with the consent of my said wife if living, and, if not, at their own discretion, to raise the whole or any part of the presumptive share of any infant child, and to apply the same for his or her advancement or benefit. And I empower my trustees to postpone the conversion of any part of my property for so long as they shall think fit, and the income of any property remaining unconverted shall, from the time of my death, be paid and applied in the same manner as the income of the proceeds

thereof would have been payable and applicable for the time being if the same had been converted.

IN WITNESS, etc.

SIGNED, etc.

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## WILL

### WITH SPECIAL CLAUSES, DEVISES AND BEQUESTS.

THIS is the last will and testament of me, —, of the — of — in the county of — and province of —, —, made this — day of — 19—.

#### *When will made in contemplation of marriage.*

Whereas I am about to marry A.B. [or, have agreed to marry A.B.] I therefore declare that this will is made by me in contemplation of such marriage (c).

#### *Revocation of former wills.*

I revoke all former wills or other testamentary dispositions by me at any time heretofore made, and declare this only to be and contain my last will and testament.

#### *Direction to pay debts.*

I direct all my just debts, funeral and testamentary expenses to be paid and satisfied by my executor [or, executrix] hereinafter named, as soon as conveniently may be after my decease.

#### *Bequest of money.*

I bequeath to — the sum of — dollars [or, I bequeath the following legacies, namely, the sum of — dollars to —, and the sum of — dollars to —].

#### *Bequest of personal articles.*

I bequeath to — all articles of personal, domestic or household use or ornament belonging to me which at my decease may be in my house at —, or in such house as I may be residing in at the date of my decease.

*Bequest of furniture and effects.*

I bequeath to — all my furniture, books, pictures, provisions and all other household effects which at the time of my death shall be in, about, or belonging to the house in which I am residing at the date of my decease.

*Bequest of furniture to wife and then to children.*

I bequeath to my said wife the use and enjoyment during her widowhood of the household furniture (*d*) and utensils not hereinbefore bequeathed, and the plate, books, pictures and prints of which I shall die possessed; and after her decease I bequeath the same to my children, to be divided between them as nearly as may be in equal shares; and if any dispute shall arise concerning the division thereof, then such division shall be made by my trustees, whose determination shall be final. I direct my executors to cause an inventory to be taken of the said articles before the delivery thereof to my said wife, and two copies of such inventory to be signed by my said wife, of which copies so signed one shall be delivered to her and the other be kept by my executors.

*Bequest of leasehold house with furniture.*

I bequeath unto — my leasehold house wherein I now reside, and the gardens and lands connected therewith, situate at — in the county of —, for all the residue of the term unexpired at my decease for which the said property is held, subject to the rent reserved by and the covenants and conditions contained in the lease to me of the said property; and I further bequeath to the said — all my furniture, fixtures and household effects in, about or belonging to the said house.

*Devise of farm with crops and other personal effects (e).*

I devise and bequeath unto — my farm at — in the county of —, and the farm house, farm buildings and all the lands belonging thereto or connected therewith, being those that I purchased of —; together with the furniture, household goods and effects, and consumable stores and provisions,

(*d*) "Household furniture" has been held to include books (*In re Holden*, 39, C.L.J., 79).

(*e*) The words "personal effects" have been held to include a mortgage on real estate (*In re Way*, 40 C.L.J., 117).



the crops and produce growing or gathered, and the live stock, tools, implements and other things which shall at the time of my death be in, upon, about or belonging to the said farm or the said farm house, buildings and property.

*Bequest of business.*

I bequeath to my son — the good will of my trade or business carried on by me at —, and the stock-in-trade (*f*), fixtures and effects belonging thereto, and the benefit of all contracts subsisting in respect of the said business, and all book debts and moneys due to me in respect thereof, or standing to the credit of my business account at my bank at the time of my decease; my said son discharging and indemnifying my general estate from all debts and liabilities due or subsisting in respect of the said business at my decease, and, if required by my representatives, entering into a bond or covenant in that behalf.

*Bequest of share in partnership to son, under a power in the partnership articles.*

WHEREAS the articles of partnership of the firm of — & Co., in which I am a partner, dated the — day of — 19—, provide that I may introduce my son — as a partner into the said firm from and after my decease, during the remainder of the term of the said partnership, subject to the provisions of the said articles; now, in exercise of such power or of any other power which may enable me in this behalf, I do hereby bequeath unto my said son my share in the capital, stock-in-trade, assets, good will and profits of the said firm, he indemnifying my general estate from all debts and liabilities of the said firm.

*Bequest of mortgage security.*

I bequeath to — a mortgage for the sum of — dollars made to me by — of —, with all securities collateral thereto, and all interest accrued on the same which may be owing to me at the time of my death.

*Bequest of insurance policy.*

I bequeath to — absolutely the policy of insurance upon my life, effected with the — Life Insurance Company for

(*f*) The words "stock in trade" have been held to include money on deposit in a bank, cash in hand, cordwood for use in shop, also dwelling houses, horses, harness and vehicles (*In re Holden*, 39 C.L.J., 79).

— dollars, dated the — day of — 19—, and numbered —, with the sum of — dollars thereby assured, and all accretions or additions thereto.

*Bequest of annuity.*

I bequeath to —, during his life, an annuity of — dollars [to be charged upon my lands hereinafter devised to —], payable half-yearly from and after my death [*or*, payable quarterly, the first payment thereof to be made at the expiration of — months after my death].

*Bequest charged on specific real estate.*

I hereby bequeath to — the sum of — dollars, and I make the payment thereof a charge upon my real estate situate at —, and herein devised to —.

*Bequest to wife, payable immediately, or by instalments.*

I bequeath to my wife — the sum of — dollars, to be paid immediately, or as soon as may be, after my death, for her immediate use. I also bequeath to her — dollars, to be paid within — months after my death, with interest at the rate of — per cent per annum, payable quarterly in the meantime [*or*, I bequeath to my wife the sum of — dollars, to be paid by four equal instalments, the first immediately after my death, and the others at the end of three, six and nine months, respectively after my death].

*Bequest to vest on full age or marriage.*

I bequeath the sum of — dollars to — of — in case and when he shall attain the age of twenty-one years or marry under that age.

*Bequest to creditor.*

I bequeath the sum of — dollars to —, and I declare that such legacy shall be in addition to, and not in satisfaction of, any debt which I may be owing him at the time of my decease.

*Release of debts to debtor.*

I release and forgive to —, or to his representatives if he shall die in my lifetime, every sum of money, with the interest thereon, which may be owing from him or them to me at the time of my decease; and I direct that any note or notes, bond

or bonds, or other obligations or securities for the same, shall be released or given up to the said — or his representatives.

*Devise to wife for life, with remainder to children.*

I devise the dwelling house and property at —, and all the furniture, household goods and effects of all kinds in and about the same to the use of my wife during her life, and from and after her death to my son —, his heirs and assigns forever [*or, to my sons — and —, their heirs and assigns forever, in equal shares as tenants in common*].

*Bequest of residue of personal estate.*

I bequeath all the residue of my personal estate and effects to — of —, absolutely, *or,*

*Gift of residue of realty and personalty.*

I devise and bequeath all the residue of my estate and effects, both real and personal, unto — of —, absolutely, *or,*

*Gift of realty and personalty to trustees for investment (g).*

I devise and bequeath all my real estate of every kind, and all my personal estate and effects whatsoever, not otherwise disposed of by this my will or any codicil thereto, unto — and — my trustees, and the survivor of them and his successor, their and his heirs, executors and administrators, respectively, according to the nature thereof; upon trust that my trustees shall sell, call in and convert into money the same or such part thereof as shall not consist of money, and shall with and out of the moneys produced by such sale, calling in and conversion, and with and out of my ready money, pay my funeral and testamentary expenses and debts, and the legacies bequeathed by this my will or any codicil hereto, but so that the proceeds of real estate shall not be applied in payment of legacies unless the other moneys applicable thereto under this trust shall be insufficient for payment thereof, and shall, with the consent in writing of my said wife during her life, and after her decease at the discretion of my trustees, invest the residue of the said moneys in any investments authorized by law for trust funds, with power for my trustees from time to time with such con-

(g) See also next clause.

sent or at such discretion as aforesaid to vary such investments, and shall stand possessed of the said residuary trust moneys, and the investments for the time being representing the same (hereinafter called the residuary trust funds), in trust to pay the income thereof to my said wife during her life, and after her decease in trust for all my children who, being sons, [have attained or] shall attain the age of twenty-one years, or, being daughters, [have attained or] shall attain that age, or [shall] marry under that age, in equal shares, and, if there shall be only one such child, the whole to be in trust for that one child. [Provided always that if any child of mine shall die in my lifetime leaving a child or children who shall survive me, and, being a son or sons, shall attain the age of twenty-one years, or being a daughter or daughters, shall attain that age or marry under that age, then and in every such case the last-mentioned child or children shall take (and, if more than one, equally between them) the share which his, her, or their parent would have taken of and in the residuary trust funds if such parent had survived me and attained the age of twenty-one years.]

*Investments allowed trustees (h).*

I authorize the trustees of this my will to invest moneys of my estate in any investments which they shall deem reasonably secure, and likely to return a fair annual income, not being limited to investments expressly authorized by law, and with power to retain investments made by me in my lifetime as long as they shall think proper, and to re-invest the proceeds of the same or any part thereof in similar securities. And in order to carry out my intention I exonerate the trustees hereof from any responsibility for loss or damage which may be occasioned by retaining investments in the form in which the same shall be at the time of my death or by reason of investments made by them in good faith in securities other than those authorized by law.

*Direction as to abatement of particular legacies.*

I direct that, in case of a deficiency of assets for the full payment of all the pecuniary legacies hereinbefore bequeathed, the two legacies of — dollars and — dollars hereinbefore

(h) This clause was settled for a Toronto Trust Company and approved by the Official Guardian.

bequeathed, to the said legatees, respectively, shall abate ratably and in proportion before any other legacy.

*Solicitor-trustee—Costs.*

And I declare that the executors and trustees for the time being of this my will may, instead of acting personally, employ and pay a solicitor to transact any business or do any act required to be done in connection with the administration of my estate or the trusts hereby declared, including the receipt and payment of money, and that an executor or trustee, being a solicitor, may be so employed, and shall be entitled to charge and be paid all professional or other charges for any business or act done by him or his firm in connection with the trust, including any act which an executor or trustee, not being a solicitor, could have done personally.

*Appointment of executors and trustees.*

I nominate and appoint — of — to be the executor or [or, executrix] of this my will [or, I nominate and appoint — of — and — of —, to be the executors and trustees of this my will.]

*Appointment of guardians.*

And I appoint [my wife — during her life, and after her death my trustees] to be the guardian [and guardians] of my infant children.

IN WITNESS, etc.

SIGNED, etc.

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WILL

OF MARRIED WOMAN UNDER POWER CONTAINED IN HER  
MARRIAGE SETTLEMENT.

This is the last will and testament of me A.B. the wife of C.D. of —.

WHEREAS by virtue of the settlement made on my marriage with the said C.D. dated the — day of — 19—, and made between — and —, a power of appointment by will over a sum of — dollars part of the settlement funds was given to me.

Now in exercise of such power, and of all others (if any) me hereunto enabling, I hereby appoint the said sum of — dollars to [my said husband absolutely, and I appoint my said husband the sole executor of this my will].

IN WITNESS, etc.

SIGNED, etc.

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### ALTERATIONS IN BEQUESTS,

BY CODICIL.

This is a codicil to the last will and testament of me, A.B., of —, bearing date the — day of — 19—.

I hereby revoke the bequests of [all my household furniture] to C.D., and do give and bequeath the same to E.F. absolutely.

I bequeath to E.F., in addition to the legacy given to him by my said will, the further sum of — dollars. In all other respects I do confirm my said will.

IN WITNESS, etc.

SIGNED, etc.

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### APPOINTMENT OF ADDITIONAL TRUSTEE AND EXECUTOR.

BY CODICIL.

This is a codicil to the last will and testament of me, A.B., of —, which will bears date the — day of — 19—.

WHEREAS by my said will I appointed C.D., of —, and E.F., of —, to be the trustees and executors of my said will [and also to be the guardians of my infant children after the decease of my wife].

Now I hereby appoint G.H., of —, to be an additional trustee and executor of my said will [and to be an additional guardian of my infant children after the decease of my said wife], and I declare that my said will shall be read and construed as if the names of the said C.D., E.F. and G.H., were inserted therein instead of the names of the said C.D. and E.F., and that all trusts and powers in and by my said will reposed in and made exercisable by the said C.D. and E.F. shall be exercisable by

the said C.D., E.F. and G.H. And in all other respects I confirm my said will.

IN WITNESS, etc.

SIGNED, etc.

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### APPOINTMENT OF NEW TRUSTEE AND EXECUTOR

IN PLACE OF ONE DECEASED, BY CODICIL.

THIS is a codicil to the last will and testament of me, A.B., of —, which will bear date the — day of — 19—.

WHEREAS by my said will I appointed C.D. to be one of the trustees and executors thereof [and also one of the guardians of my infant children after the decease of my wife], and whereas the said C.D. has lately died.

Now I hereby appoint E.F., of —, to be one of the trustees and executors of my said will [and also to be one of the guardians of my infant children after the decease of my said wife], in the place of the said C.D., deceased. [And I give to the said E.F. a legacy of — dollars for his trouble in acting as an executor and trustee of my said will:] and I direct that my said will shall be read and construed as if the name of the said E.F. were inserted in my said will throughout instead of the name of the said C.D. And in all other respects I confirm my said will.

IN WITNESS, etc.

SIGNED, etc.

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### REVOCATION OF APPOINTMENT OF TRUSTEE

AND EXECUTOR, AND APPOINTMENT OF NEW ONE, BY CODICIL.

THIS is a codicil to the last will and testament of me, A.B., of —, which will bears date the — day of — 19—.

WHEREAS by my said will I appointed C.D. to be one of the trustees and executors thereof [and also one of the guardians of my infant children after the decease of my wife], and I have given him a legacy of — dollars for his trouble in acting as such trustee and executor.

Now I hereby revoke the appointment of the said C.D. as trustee and executor [and guardian], and also the said legacy of

— dollars given to him as aforesaid. And I appoint E.F., of —, to be a trustee and executor of my said will [and also to be a guardian of my infant children after the decease of my said wife] in the place of the said C.D., and I give to the said E.F. a legacy of — dollars for his trouble in acting as such trustee and executor. And I declare that my said will shall be read and construed as if the name of the said E.F. were inserted in my said will throughout instead of the name of the said C.D. And in all other respects I confirm my said will.

IN WITNESS, etc.

SIGNED, etc.

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### DISCLAIMER BY TRUSTEE

#### UNDER A WILL.

KNOW ALL MEN by these presents that I, A.B., [*disclaiming party*] of —, hereby disclaim the office of trustee under the will of C.D., late of —, who died on the — day of — 19—, and all estates and powers thereby expressed to be given to or vested in me as a trustee. [And I hereby declare that I have not accepted the trusteeship nor acted in any manner as a trustee thereof].

IN WITNESS, etc.

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### REVIVAL OF WILL

#### REVOKED BY MARRIAGE; REVIVAL PLACED AT END OF WILL.

I, —, of — in the county of —, —, do hereby confirm the above will this — day of — 19—.

SIGNED by the said —, in the presence of us both present at the same time who in his presence and at his request have hereunto subscribed our names as witnesses, and such signature by the said — and by us took place between the hours of — and — o'clock in the morning of [Saturday] the — day of — 19—, after the marriage solemnized between the said — and — now his wife.



## REVIVAL OF WILL

(PREVIOUSLY REVOKED,) BY CODICIL.

WHEREAS I, —, of — made my will on the — day of — 19—, and have since revoked the same. Now I hereby annul such revocation and declare that the said will is valid and subsisting.

SIGNED, etc.

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## REVOCATION OF WILL

I, —, of — in the county of —, —, do hereby revoke my will dated the — day of — 19—.

SIGNED, etc.

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# ALBERTA.

## CONSTITUTION AND LAWS.

The Province of Alberta was constituted by c. 3 of the statutes of 1905 of Canada, its territory forming a part of what had previously been known as "The North-West Territories." By section 16 of the Act all laws, and all orders and regulations made thereunder, existing in the territory which, by the said Act, became the Province of Alberta, are continued.

By section 1 of c. 18 of the statutes of 1905 of Canada it is provided that upon the establishment of a province in any portion of the North-West Territories, and the enactment by the legislature of that province of an Act relating to the registration of land titles, the Governor in Council may, by order, repeal the provisions of the Land Titles Act and its amending Acts (a) in so far as they apply to the said province. No such repealing order shall take effect until it has been published in four consecutive weekly issues of the "Canada Gazette."

The Land Titles Act having been in force in the North-West Territories previous to the constitution of the Province of Alberta, the forms made thereunder, given below, are accordingly still applicable in this province, and no change can be made in the Act or forms until the province passes legislation. This it may do at its first session in 1906, but even then the forms may not be changed materially.

Some of the more important provisions relating to real property will be found under the heading "North-West Territories" post.

(a) Can. 1894, c. 28; 1897, c. 30; 1898, c. 32; 1899, c. 17; 1900, c. 21; 1902, c. 17; 1904, c. 19; 1905, c. 18.

## TRANSFER OF LAND

FOR WHICH A CERTIFICATE OF TITLE HAS BEEN GRANTED.  
THE LAND TITLES ACT.

(Can., 1894, c. 28, s. 61, Sch. Form J.)

I, A.B., of —, in the — of —, —, being registered owner of an estate [*state the nature of estate*], subject, however, to such incumbrances, liens and interests (*b*) as are notified by memorandum under written [*or, endorsed hereon*] in all that certain tract of land (*c*) containing — acres, more or less, and being [part of] — section, township —, range —, in the — [*or as the case may be: Here state rights of way, privileges, easements, if any, intended to be conveyed along with the land and if the land dealt with contains all included in the original grant, refer thereto for descriptions of parcels and diagrams; otherwise set forth the boundaries and accompany the description by a diagram*] do hereby, in consideration of the sum of — dollars paid to me by E.F., the receipt of which sum I hereby acknowledge, transfer to the said E.F., all my estate and interest in the said piece of land [*when a lesser estate, describe such lesser estate*].

IN WITNESS whereof I have hereunto subscribed my name this — day of — 19—.

SIGNED by said A.B. }  
in the presence of }

[Signature.]

(*b*) Section 65 of the Act provides that "in every instrument transferring land, for which a certificate of title has been granted, subject to mortgage or encumbrance, there shall be implied the following covenant by the transferee, that is to say: That the transferee will pay the principal money, interest, annuity or rent charge secured by the mortgage or encumbrance, after the rate and at the time specified in the instrument creating the same, and will indemnify and keep harmless the transferor from and against the principal sum or other moneys secured by such instrument, and from and against the liability in respect of any of the covenants therein contained or under this Act implied, on the part of the transferor."

(*c*) Section 61 of the Act requires that the transfer shall, for description of the land, refer to the certificate of title or shall give such description as is sufficient to identify it, and shall contain an accurate statement of the estate, interest or easements intended to be transferred or created, and a memorandum of each lease, mortgage and other encumbrance to which the land is subject.

## AFFIDAVIT OF EXECUTION

## OF INSTRUMENT, UNDER LAND TITLES ACT.

(Can., 1894, c. 28, ss. 100, 101; Sch. Form W.)

PROVINCE of Alberta; } I, —, of the — of —, in the  
 To Wit: } — of —, —, make oath and  
 say:

1. I was personally present and did see —, named in the within [or, annexed] instrument, who is personally known to me to be the person named therein, duly sign and execute the same for the purposes named therein.

2. That the same was executed [on the day of the date thereof] at the — in the —, and that I am the subscribing witness thereto.

3. That I know the said —, and he is in my belief of the full age of twenty-one years.

SWORN, etc.

## AFFIDAVIT OF VALUE OF LAND (d).

## UNDER LAND TITLES ACT.

(Can. 1894, c. 28, s. 115, s-s. 2.)

IN THE MATTER of the transfer of [describe land shortly].

I, —, of the — of — in the judicial district of —, —, make oath and say: .

1. That I am the [applicant, or, owner, or intended transferee, or as the case may be (e)] named in a transfer of the above land dated the — day of — 19—.

2. That the value of the said land, including all buildings and other improvements thereon, is — dollars and no more.

SWORN, etc.

(d) The Act authorizes the registrar to require an oath or affirmation, although a "Declaration" is sometimes accepted.

(e) The registrar is entitled to demand that the value shall be ascertained by the oath or affirmation of the applicant, owner or person acquiring the land, or of such other person as he believes to be acquainted with its value, and whose oath or affirmation he is willing to accept (Can. 1894, c. 28, s. 115, s-s. 2; 1898, c. 32, s. 16).

## LEASE OF LAND

FOR WHICH A CERTIFICATE OF TITLE HAS BEEN ISSUED (f).  
THE LAND TITLES ACT.

(Can., 1894, c. 28, ss. 67-72; Sch. Forms K and L.)

I, A.B., of —, in the — of —, —, being registered as owner, subject, however, to such mortgages (g) and encumbrances as are notified by memorandum underwritten [or, endorsed hereon] of that piece of land [describe it], part of —, section —, township —, range —, [or as the case may be,] containing — acres, more or less [here state rights of way, privileges, easements, if any, intended to be conveyed along with the land, and if the land dealt with contains all included in the original grant or certificate of title or lease, refer thereto for description and diagram, otherwise set forth the boundaries by metes and bounds] do hereby lease to E.F., of —, all the said land, to be held by him, the said E.F., as tenant, for the space of — years from [here state the date and term] at the yearly rental of — dollars, payable [here insert terms of payment of rent], subject to the covenants and powers implied [also set forth any special covenants or modifications of implied covenants (h)].

The said E.F. covenants with the said A.B. that he will

(f) This form is for a lease of more than 3 years (s. 67).

(g) No lease of mortgaged or encumbered land is valid and binding against the mortgagee or encumbrancee unless the mortgagee or encumbrancee has consented to the lease prior to its being registered, or subsequently adopts it (s. 67).

(h) There are implied in every lease (unless a contrary intention appears), the following covenants by the lessee, viz., that he will pay the rent reserved and all rates and taxes during the term of the lease, and that he will, during the continuance of the lease, keep, and at the termination thereof yield up the demised land in good and tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty and reasonable wear and tear excepted (s. 68); and the following powers in the lessor, viz., that he may enter and view the state of repair and may serve upon the lessee or leave at his last or usual place of abode, or upon the demised land, a notice in writing of any defect, and require him within a reasonable time, to be therein mentioned, to repair the defect, in so far as the tenant is bound to do so. And further, that if the rent is in arrear for two months, or default is made in any covenant, whether expressed or implied, and is continued for two months, or if the repairs required by the notice aforesaid are not completed within the time specified, the lessor may enter upon and take possession of the demised land (s. 69).

not, without leave, assign or sublet, will fence, will cultivate, will not cut timber, and will not carry on offensive trade (i).

I, E.F., of —, do hereby accept this lease of the above-described land, to be held by me as tenant, and subject to the conditions, restrictions and covenants above set forth.

Dated this — day of — 19—.

SIGNED by the above-named A.B.	}	
as lessor, and E. F. as lessee,		[Signature of lessor.]
in presence of —.	}	[Signature of lessee.]

[Here insert memorandum of mortgages and incumbrances.]

[For Affidavit of Execution, see p. 687.]

## SURRENDER OF LEASE.

### THE LAND TITLES ACT.

(Can. 1894, c. 28, s. 72; Sch. Form M.)

In consideration of — dollars to me paid by [lessee or his assigns, as the case may be] I do hereby surrender (j) and yield up from the day of the date hereof unto — the lease [describe the lease fully], and the term therein created.

Dated the — day of — 19—.

SIGNED by the above named —,	}
in the presence of —.	

## MORTGAGE OF LAND.

### THE LAND TITLES ACT.

(Can. 1894, c. 28, s. 23; Sch. Forms N and R.)

I, A.B., of — in the — of —, —, being registered as owner of an estate [here state nature of interest], subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten [or, endorsed hereon] of that piece of land [description], part of —, section —, township

(i) The above paragraph is composed of the Short Form covenants (Sch. Form L), which are covenants by the covenantor and his heirs, executors, administrators and transferees with the covenantee and his transferees (s. 71).

(j) No lease subject to a mortgage or encumbrance shall be surrendered without the consent of the mortgagee or encumbrancee (s. 72).

—, range — [or as the case may be], containing — acres, be the same more or less, [here state rights of way, privileges, easements, if any, intended to be conveyed along with the land, and if the land dealt with contains all included in the original grants, refer thereto for description of parcels and diagrams; otherwise set forth the boundaries and accompany the description by a diagram,] in consideration of the sum of — dollars lent to me by E.F. of —, the receipt of which sum I do hereby acknowledge, covenant with the said E.F.:

Firstly, That I will pay to him, the said E.F., the above sum of — dollars on the — day of — 19—.

Secondly, That I will pay interest on the said sum at the rate of — on the dollar, in the year, by equal payments on the — day of —, and on the — day of — in every year.

Thirdly, [Here set forth special covenants, if any].

And the said A.B. [mortgagor] covenants with the said E.F. [mortgagee] that he has a good title to the said land, and that he has the right to mortgage the land. And that on default the [mortgagee] shall have quiet possession of the land, free from all encumbrances, and that he will execute such further assurances of the land as may be requisite. And that he has done no act to encumber the land.

And for the better securing of the said E.F. the repayment in manner aforesaid, of the principal sum and interest, I hereby mortgage to the said E.F. my estate and interest in the land above described.

IN WITNESS whereof I have hereunto signed my name this — day of — 19—.

SIGNED by the above named	}	[Signature of mortgagor.]
A.B. as mortgagor,		
in presence of —.		

[Insert memorandum of mortgages and encumbrances.]

## AFFIDAVIT TO BE FILED WITH MORTGAGE

WHEN MORTGAGE GIVEN BEFORE PATENT ISSUED.

## THE LAND TITLES ACT.

(Can. 1898, c. 32, s. 24; Sch. Form AA; 1904, c. 19, s. 1.)

I, [name of mortgagor or encumbrancer, as the case may be],  
of the — of —, —, make oath and say:

1. I am the mortgagor [or, encumbrancer, as the case may be.] named in the hereunto annexed instrument, bearing date the — day of — 19—, and made in favour of — against [describe the lands mortgaged or encumbered].

2. The grant from the Crown of the said land has not yet been issued, but I claim to be the party rightfully in possession of the said land and to be entitled to create the said mortgage [or, encumbrance] and that particulars of my possession and title to the said lands are as follows: [here must be given such information as will satisfy the Registrar as to the mortgagor's or encumbrancer's right to create the mortgage or encumbrance, and, in the case of such mortgagor or encumbrancer of land entered for by him as a homestead or pre-emption under the provisions in that behalf contained in The Dominion Lands Act, that he has been recommended for patent and received his certificate of recommendation in accordance with the said provisions].

SWORN, etc.

## TRANSFER OF MORTGAGE,

ENCUMBRANCE OR LEASE.

## THE LAND TITLES ACT.

(Can. 1894, c. 28, s. 82; Sch. Form P.)

I, C.D., the mortgagee [encumbrancee, or, lessee, as the case may be], in consideration of — dollars this day paid to me by X.Y. of —, the receipt of which sum I do hereby acknowledge, hereby transfer to him the mortgage [encumbrance, or, lease, as the case may be; describe the instrument fully] together with all my rights, powers, title and interest therein.

IN WITNESS, etc.

SIGNED by the said —	}	C.D. [Transferror.]
in presence of		Accepted, X.Y. [Transferee.]

[For Affidavit of Execution, see p. 687.]



## DISCHARGE OF MORTGAGE.

RECEIPT OR ACKNOWLEDGEMENT OF PAYMENT <sup>m</sup> OF MORTGAGE  
OR OTHER ENCUMBRANCE.

## THE LAND TITLES ACT.

(Can. 1894, c. 28, s. 79; Sch. Form I.)

I, C.D., the mortgagee [encumbrancee, *or*, assignee, *as the case may be*], do acknowledge to have received all the moneys due or to become due under the within written mortgage [*or*, encumbrance, *as the case may be*] and that the same is wholly discharged.

IN WITNESS, etc.

SIGNED by the above named C.D. } [Signature.]  
in the presence of }

## APPLICATION

TO BRING LAND UNDER LAND TITLES ACT.

(Can. 1894, c. 28, s. 41; Sch. Form F.)

To the registrar of — registration district:

I, [*insert name and addition*], hereby apply to have the land hereinafter described brought under the operation of "The Land Titles Act, 1894." And I declare:

1. That I am the owner [*or*, agent for —, the owner] of an estate in fee simple in possession [*or*, of an estate of freehold in possession for my life, *or otherwise as the case may require*] in all that piece of land, being [*here describe the land*].

2. That such land, including all buildings and other improvements thereon, is of the value of — dollars, and no more.

3. That there are no documents or evidences of title affecting such land in my possession, or under my control, other than those included in the schedule hereto.

4. That I am not aware of any mortgage or encumbrance affecting the said land, or that any other person has any estate or interest therein at law or in equity, in possession, remainder, reversion or expectancy [*if there be any add*: other than as follows, *and set the same forth*].

5. That the said land is now occupied [*if unoccupied, prefix "un" to "occupied;" if occupied, add by whom, and state the name and addition of the occupant and the nature of his occupancy*].

6. That the names and addresses, so far as known to me, of the occupants of all lands contiguous to the said land, are as follows: —.

7. That the names and addresses, so far as known to me, of the owners of all lands contiguous to the said land, are as follows: —.

[*If the certificate of title is not to be granted to the applicant, add: And I direct the certificate of title to be granted in the name of [insert name and addition]*].

Dated this — day of — 19—.

MADE AND SUBSCRIBED at — } [Signature.]  
in the presence of — }

#### SCHEDULE OF DOCUMENTS REFERRED TO (k).

### AFFIDAVIT OF APPLICANT.

#### TO ACCOMPANY APPLICATION TO BRING LAND UNDER LAND TITLES ACT.

(Can. 1904, c. 28, s. 41; Sch. Form G.)

Province of Alberta, {  
District of —, { I, —, of —, —, make oath and  
To Wit: { say:

1. That I am the applicant named in the application hereto annexed.

2. That the several statements contained in the said application are true, to the best of my knowledge and belief.

SWORN, etc. [Signature.]

(k) The application and affidavit (below) must be accompanied by, (i.) the deeds in applicant's possession, (ii.) a certificate showing the registrations affecting the title down to the time when the application is filed, with copies of any registered documents, the original whereof he is unable to produce, (iii) a certificate from the sheriff showing that there is no execution in his hands against the applicant's lands. But it is not necessary to produce copies of the above documents if the originals are recorded in the office of the registrar to whom, and at the time when, the application is made.

POWER OF ATTORNEY  
TO TRANSFER PARTICULAR LANDS.  
THE LAND TITLES ACT.  
(Can. 1894, c. 28; Sch. Form S.)

I, A.B., being registered owner of an estate [*here state nature of the estate or interest*], subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten [*or, endorsed hereon*], [*here refer to schedule for description and contents of the several parcels of land intended to be affected, which schedule must contain reference to the existing certificate of title or lease of each parcel*] do hereby appoint C.D. attorney on my behalf to [*here state the nature and extent of the powers intended to be conferred, as to sell, lease, mortgage, etc.*], the land in the said schedule described, and to execute all such instruments, and do all such acts, matters and things as may be necessary for carrying out the powers hereby given and for the recovery of all rents and sums of money that may become or are now due, or owing to me in respect of the said lands, and for the enforcement of all contracts, covenants or conditions binding upon any lessee or occupier of the said lands, or upon any other person in respect of the same, and for the taking and maintaining possession of the said lands, and for protecting the same from waste, damage or trespass.

IN WITNESS whereof I have hereunto subscribed my name  
this — day of — 19—.

SIGNED by the above named A.B. )	[Signature.]
in the presence of —. )	
—	

POWER OF ATTORNEY  
RESPECTING LANDS NOT SPECIFICALLY DESCRIBED (1).  
THE LAND TITLES ACT.  
(Can. 1902, c. 17, s. 1.)

I, A.B., of —, —, do hereby constitute and appoint

(1) This form is drawn to carry out the meaning of s. 87 of The Land Titles Act, as enacted by c. 17 of the statutes of 1902, whereby "The owner of any land may authorize and appoint any person to act for him or on his behalf with respect to the transfer or other dealing with such land or with any part thereof, in accordance with the provisions of this Act, by executing a power of attorney \* \* \* in any form heretofore in use for the like purpose in which the land is not specifically mentioned and described, but is mentioned and referred to in general terms, any of which forms of power of attorney the registrar shall register."

C.D. of —, —, [or, C.D. of — and E.F. of —, or either of them], my true and lawful attorney [or, attorneys] for me and in my name, place and stead, and for my sole use and benefit to [sell, or, mortgage, or as the case may be] all the real estate of which I now am, or may hereafter become, the registered owner, situate in the Land Registration District of —, in the Province of Alberta [*here add such further powers and special clauses as are desired; see preceding form and also special clauses under "Powers of Attorney" on p. 618.*]

IN WITNESS, etc.

SIGNED, etc.

### REVOCATION OF POWER OF ATTORNEY.

#### THE LAND TITLES ACT.

(Can. 1898, c. 32, s. 22; Sch. Form T.)

I, A.B., of — hereby revoke the power of attorney given by me to —, dated the — day of — 19—, and recorded in the Land Titles Office at — for the — Land Registration District, on the — day of — 19—, as number —.

IN WITNESS whereof I have hereunto subscribed my name this — day of — 19—.

SIGNED by the above named A.B.,  
in the presence of — }

[Signature.]

### CAVEAT.

#### THE LAND TITLES ACT.

(Can. 1898, c. 32, s. 23; Sch. Form V.)

To the Registrar, — District.

TAKE NOTICE that I, A.B., of [*insert description*] claiming [*here state the nature of the estate or interest claimed, and the grounds upon which such claim is founded*] in [*here describe land and refer to certificate of title*] forbid the registration of any transfer affecting such land or the granting of a certificate of title thereto except subject to the claim herein set forth.

My address is —.

Dated this — day of — 19—.

[Signature of caveator or his agent.]

## OATH OF CAVEATOR

## VERIFYING CAVEAT.

I, the above named A.B., [or, I, C.B., agent of the above named A.B.] of *[residence and description]* make oath [or, affirmation, as the case may be] and say, that the allegations in the above caveat are true in substance and in fact [and, if there is no personal knowledge, add, as I verily believe].

SWORN, etc.

[Signature.]

[If the affidavit is by an agent, a copy of the authority or power under which he claims to act is to be annexed. The address given of the caveator or his agent must be one within the registration district, at which notices may be served].

## SURVEYOR'S CERTIFICATE OF PLAN.

## THE LAND TITLES ACT.

(Can. 1894, c. 28, s. 121; Sch. Form Z.)

I, —, Dominion land surveyor, do solemnly declare that this plan accurately shows the manner in which the land included therein has been surveyed and subdivided by me, and that the said plan is prepared in accordance with the provisions of "The Land Titles Act, 1894."

Dated at —, — 19—.

SIGNED in the presence of }

[Signature.]

Dominion Land Surveyor.

## BILL OF SALE

## OF GOODS AND CHATTELS.

(Con. Ord. N.W.T., 1898, c. 43, s. 9.)

[The same as the Ontario form on p. 216. The bill of sale must "contain sufficient and full description thereof that the same may be readily and easily known and distinguished."]

## AFFIDAVIT OF EXECUTION

OF BILL OF SALE.

(Con. Ord. N.W.T., 1898, c. 43, s. 9.)

[Same as *Manitoba form on p. 728.*]

## AFFIDAVIT OF BONA FIDES

BY BARGAINEE.

(Con. Ord. N.W.T., 1898, c. 43, s. 9.)

[The same as the Ontario forms on pp. 218 and 219.]

## AFFIDAVIT OF BONA FIDES

BY AGENT OF BARGAINEE.

(Con. Ord. N.W.T., 1898, c. 43, s. 9.)

ALBERTA, } I, —, of the — of — in the — of —,  
 To Wit: } —, make oath and say:

1. I am the duly authorized agent of —, the bargainee in the foregoing [*or, annexed*] conveyance or bill of sale named for the purposes of the said conveyance, and I am aware of all the circumstances connected with the sale.

2. I am duly authorized in writing to take the said conveyance or bill of sale, and the paper writing thereunto attached marked "B" is a true copy of such authority.

3. The sale therein made is bona fide and for good consideration, namely the sum of — dollars, as set forth in the said conveyance, and is not for the purpose of holding or enabling the said bargainee to hold the goods mentioned therein against the creditors of —, the bargainor therein named.

SWORN, etc.

## CHATTEL MORTGAGE.

(General form.)

(Con. Ord. N.W.T., 1898, c. 43, s. 7; Sch. Form A.)

THIS INDENTURE made the — day of —, A.D. 19—, between A.B. of —, of the one part, and C.D. of —, of the other part.

WITNESSETH that in consideration of the sum of \$— (*m*) now paid to A.B. by C.D., the receipt of which the said A.B. hereby acknowledges [*or whatever else the consideration may be*] he the said A.B. doth hereby assign to the said C.D., his executors administrators and assigns, all and singular the several chattels and things specifically described as follows [*or, in the schedule hereto annexed*] by way of security for the payment of the sum of \$—, and interest thereon at the rate of — per cent per annum [*or whatever else may be the rate*] and the said A.B. doth further agree and declare that he will duly pay to the said C.D. the principal sum aforesaid together with the interest then due on the — day of —, A.D. 19—, [*or whatever else may be the stipulated time or times for payment*].

And the said A.B. doth agree with the said C.D. that he will [*here insert terms as to insurance, payment of rent, collateral securities or otherwise which the parties may agree to for the maintenance or defeasance of the security (n).*]

Provided always that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said C.D. for any cause other than those specified in section 16 of "The Bills of Sale Ordinance," except as is otherwise specially provided herein.

IN WITNESS whereof the said A.B. has hereunto set his hand and seal.

SIGNED and sealed by the said A.B.	}	A.B.
in the presence of me, E.F.		
[Add name, address and occupation of		
witness.]		

(*m*) If the consideration for which the mortgage or conveyance is made is not truly expressed therein the mortgage or conveyance is absolutely void as against creditors of the mortgagor and subsequent purchasers or mortgagees in good faith for valuable consideration (Con. Ord. N.W.T. 1898, c. 43, s. 11).

(*n*) For special clauses, see p. 242, et seq.

AFFIDAVIT OF EXECUTION  
OF CHATTEL MORTGAGE.

(Con. Ord. N.W.T., 1898, c. 43, s. 6.)

[The same as Manitoba form on p. 730.]

AFFIDAVIT OF BONA FIDES  
OF CHATTEL MORTGAGE.

(Con. Ord. N.W.T., 1898, c. 43, s. 8.)

[The affidavits by a sole mortgagee and by one of several mortgagees are the same as the Ontario forms on pp. 252, 253.]

The affidavit by an agent (o) of the mortgagee is the same as the Manitoba form on p. 730, with the addition of the following clause.

"2. I am properly authorized by power in writing to take such said mortgage [or, bill of sale by way of mortgage] and the paper writing marked "B" attached (p) to the said mortgage [or, bill of sale by way of mortgage] is a true copy of my authority to take such mortgage."

CHATTEL MORTGAGE

TO SECURE MORTGAGEE AGAINST LIABILITY AS INDORSER  
FOR MORTGAGOR.

(Con. Ord. N.W.T., 1898, c. 43, s. 8.)

[The Ontario form on p. 256 may be used, but the time of payment of the note must not be more than two years from the date of the mortgage, instead of one year as in the Ontario Act.]

[The Affidavit of Execution is the same as the Manitoba form on p. 730.]

(o) The expressions "mortgagee," "bargainee" and "assignee" include also the agent or manager of any mortgagee, bargainee or assignee being an incorporated company (Con. Ord. N.W.T. 1898, c. 43, s. 22).

(p) If the authority is a general one to take and renew all or any mortgages or conveyances it is not necessary to attach a copy to each mortgage filed, provided such general authority is filed with the clerk. (Con. Ord. N.W.T., 1898, c. 43, s. 21.)



## AFFIDAVIT OF BONA FIDES.

## MORTGAGE TO SECURE INDORSER.

(Con. Ord. N.W.T., 1898, c. 43, s. 8.)

*[The affidavits by a sole mortgagee and by one of several mortgagees are the same as the Ontario forms on p. 262, but substituting the word "truly" for the word "fully" wherever it occurs. The affidavit by an agent of the mortgagee is the same as the Ontario form on p. 263, with the exception of the last three lines of para. 1, which should be changed to, "mortgage, and I am aware of all the circumstances connected therewith," and the substitution of the word "truly" for the word "fully" in the third paragraph.]*

## CHATTEL MORTGAGE

## TO SECURE FUTURE ADVANCES.

(Con. Ord. N.W.T., 1898, c. 43, s. 8.)

*[The Ontario forms on pp. 265, 267, may be used, but the date of repayment of the advances may be not more than two years from the date of the mortgage, instead of one year as in the Ontario Act.]*

*[The Affidavit of Execution is the same as the Manitoba form on p. 730.]*

## AFFIDAVIT OF BONA FIDES.

## MORTGAGE TO SECURE FUTURE ADVANCES.

(Con. Ord. N.W.T., 1898, c. 43, s. 8.)

*[The affidavits by a sole mortgagee and by one of several mortgagees are the same as the Ontario forms on pp. 268, 269. The affidavit by an agent of the mortgagee is the same as the Ontario form on p. 270, with the exception of the last three lines of para. 1, which should be changed to "and to take such mortgage, and I am aware of all the circumstances connected therewith."]*

## STATEMENT ON RENEWAL

## OF CHATTEL MORTGAGE (q).

(Con. Ord. N.W.T., 1898, c. 43, ss. 17, 18.)

STATEMENT exhibiting the interest of C.D. in the property mentioned in the chattel mortgage dated the — day of — A.D. 19—, made between A.B. of —, of the one part, and C.D. of —, of the other part, and filed in the office of the registration clerk of the registration district of — [as the case may be] on the — day of — 19—, and of the amount due for principal and interest thereon and of all payments made on account thereof.

The said C.D. is still the mortgagee of the said property and has not assigned the said mortgage [or, the said E.F. is the assignee of the said mortgage by virtue of an assignment thereof from the said C.D. to him dated the — day of — 19—, or as the case may be].

No payments have been made on account of the said mortgage [or, the following payments and no other have been made on account of the said mortgage; 19—, Jan. 1. Cash received \$—].

The amount still due for principal and interest on the said mortgage is the sum of — dollars computed as follows: [here give the computation].

C.D.

## AFFIDAVIT ON RENEWAL

## OF CHATTEL MORTGAGE (r).

(Con. Ord. N.W.T. 1898, c. 43, s. 18.)

PROVINCE } I, —, of —, the mortgagee (s) named in  
of Alberta. } the chattel mortgage mentioned in the foregoing  
To Wit: } [or, annexed] statement [or, assignee of —, the

(q) In Alberta, Saskatchewan and Yukon Territory the renewal statement and affidavit must be filed within the 30 days preceding the expiration of 2 years from the filing of the mortgage (Con. Ord. N.W.T., c. 43, s. 17; Con. Ord. Yukon, c. 39, s. 16).

(r) This affidavit (which must accompany the Renewal Statement,) may be made by any next of kin, executor or administrator of any deceased mortgagee, or by an assignee claiming by or through any mortgagee, or any next of kin, executor or administrator of any such assignee (Con. Ord. N.W.T. 1898, c. 43, s. 20).

(s) See note (o) on p. 699.

mortgagee named in the chattel mortgage mentioned in the foregoing,] *or*, annexed, statement, *as the case may be*] make oath and say:

1. That the foregoing [*or*, annexed] statement is true.
2. That the chattel mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.

SWORN, etc.

### DISCHARGE OF CHATTEL MORTGAGE.

(Con. Ord. N.W.T., 1898, c. 43, s. 25; Sch. Form B.)

To the registration clerk of the registration district of —.

I, —, of —, do certify that — has satisfied all money due on or to grow due on a certain chattel mortgage made by — to —, which mortgage bears date the — day of —, A.D. 19—, and was registered [*or in case the mortgage has been renewed, was renewed*] in the office of the registration clerk of the registration district of —, on the — day of —, A.D. 19—, as number —, [*here mention the day and date of registration of each assignment thereof and the names of the parties, or mention that such mortgage has not been assigned, as the fact may be,*] and that I am the person entitled by law to receive the money; and that such mortgage is therefore discharged.

WITNESS my hand this — day of —, A.D. 19—.

WITNESS [*stating residence and occupation*].

### AFFIDAVIT OF EXECUTION

OF DISCHARGE OF CHATTEL MORTGAGE.

(Con. Ord. N.W.T., 1898, c. 43, s. 26.)

PROVINCE of Alberta, } I, —, of the — of — in the  
To Wit: } — of —, —, make oath and say:

1. I was personally present and did see the within certificate of discharge of chattel mortgage duly signed and executed by —, one of the parties thereto.

2. The said certificate was so executed at the — of — in the county of —.

3. I know the said party.

4. I am a subscribing witness to the said certificate.

SWORN, etc.

### DECLARATION OF CO-PARTNERSHIP.

(Con. Ord. N.W.T., 1898, c. 45 s.2; Sch. Form A.)

PROVINCE of } We, — of — in the — of —,  
Alberta. } — [occupation], and — of — in the  
                              } — of —, — [occupation], hereby certify:

1. That we have carried on and intend to carry on trade and business as — at — in partnership under the name and firm of —, [or, I, or, we, the undersigned, of — in —, hereby certify that I, or, we, have carried on and intend to carry on trade and business as — at — in partnership with — of — and — of — as the case may be].

2. That the said partnership has subsisted since the — day of — 19—.

3. And that we [or, I, or, we] and the said — and — are and have been since the said day the only members of the said partnership.

WITNESS our hands at — this — day of — 19—.

### DECLARATION OF DISSOLUTION OF PARTNERSHIP.

(Con. Ord. N.W.T., 1898, c. 45, s. 12; Sch. Form D.)

PROVINCE } I, —, of —, formerly a member of the  
of Alberta. } firm of —, carrying on business as — at  
— in the — of —, under the style of —, do hereby certify  
that the said partnership was, on the — day of — 19—,  
dissolved.

WITNESS my hand at — the — day of — 19—.

# BRITISH COLUMBIA.

## CONVEYANCE OF LAND.

(Statutory form.)

THIS INDENTURE made the — day of — 19—, in pursuance of the "Real Property Conveyance Act" (a), between [here insert the names of parties (b) and recitals, if any].

WITNESSETH, that in consideration of — [dollars of lawful money of Canada] now paid by the said [grantee] to the said [grantor], the receipt whereof is hereby by him acknowledged, he the said [grantor] doth grant unto the said [grantee] his heirs and assigns forever, all that certain parcel of land, etc.

To have and to hold (c) unto the said [grantee] his heirs and assigns to and for his and their sole and only use forever, subject nevertheless to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said [covenantor] covenants with the said [covenantee] that he has the right to convey the said lands to the said [covenantee] notwithstanding any act of the said [covenantor] and that the said [covenantee] shall have quiet possession of the said lands, free from all incumbrances.

And the said [covenantor] covenants with the said [covenantee] that he will execute such further assurances of the said lands as may be requisite.

And the said [covenantor] covenants with the said [covenantee] that he has done no acts to encumber the said lands.

(a) R.S.B.C., c. 49.

(b) By the Dower Act (R.S.B.C., c. 63, s. 5) no widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime, or by his will. The dower clause is therefore unnecessary.

(c) This clause (the habendum) is usually inserted in conveyances, although it does not appear in the Act.

And [*releasor*] releases to the said [*releasee*] all his claims upon the said lands.

IN WITNESS, etc.

SIGNED, SEALED, etc.

### ACKNOWLEDGEMENT OF EXECUTION

FOR MAKER OF A DEED (*d*).

I HEREBY CERTIFY that — [*grantor*], personally known (*e*) to me, appeared before me, and [having been duly sworn by me] acknowledged to me that he is the person mentioned in the within [*or*, annexed] instrument as the maker thereof, and whose name is subscribed thereto as party, that he knows the contents thereof, and that he executed the same voluntarily, and that he is of the full age of twenty-one years.

IN TESTIMONY whereof I have hereunto set my hand and seal of office at — this — day of — 19 —.

—, Notary Public,  
[*or commissioner, etc., authorized to take the acknowledgement.*]

### ACKNOWLEDGEMENT OF EXECUTION

FOR WITNESS TO A DEED (*d*).

I HEREBY CERTIFY that — [*witness*], personally known (*e*) to me, appeared before me, and acknowledged to me that he is the person whose name is subscribed to the annexed instrument as witness, and that he is of the full age of sixteen years, and having been duly sworn by me did prove to me that — [*grantor*] did execute the same in his presence voluntarily, and that he (*j*) is of the full age of twenty-one years.

IN TESTIMONY, etc.

(*d*) Either the acknowledgement of the maker of, or the witness to, a deed is necessary, but not both.

(*e*) Where the person making the acknowledgement is not personally known to the officer taking the same, instead of the words "personally known to me," insert the words "proved by the evidence on oath [*or*, affirmation] of E.F."

(*f*) The grantor.

## ACKNOWLEDGEMENT OF EXECUTION

## FOR ATTORNEY.

I HEREBY CERTIFY that —, personally known (*g*) to me, appeared before me, and acknowledged to me that he is the person who subscribed the name of — to the annexed instrument as the maker thereof, that the said — is the same person mentioned in the said instrument as the maker thereof, and that he, the said —, knows the contents of the said instrument, and subscribed the name of the said — thereto voluntarily as the free act and deed of the said —.

IN TESTIMONY, etc.

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## ACKNOWLEDGEMENT OF EXECUTION

## FOR MARRIED WOMAN.

I HEREBY CERTIFY that —, personally known (*g*) to me to be the wife of —, appeared before me, and being first made acquainted with the contents of the annexed instrument and the nature and effect thereof, acknowledged on examination, and apart from and out of hearing of her said husband, that she is the person mentioned in such instrument as the maker thereof, and whose name is subscribed thereto as party; that she knows the contents and understands the nature and effect thereof; that she executed the same voluntarily, without fear, or compulsion, or undue influence of her said husband; and that she is of full age and competent understanding, and does not wish to retract the execution of the said instrument.

IN TESTIMONY, etc.

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## ACKNOWLEDGEMENT OF EXECUTION

## FOR OFFICER OF A CORPORATION.

I HEREBY CERTIFY that —, personally known (*g*) to me, appeared before me and acknowledged to me that he is the [secretary] of the — [company], and that he is the person who subscribed his name to the annexed instrument as [secretary]

(*g*) See note (*c*) on p. 705.

of the said [company] and affixed the seal of the said [company] to the said instrument; that he was first duly authorized to subscribe his name as aforesaid, and to affix the said seal to the said instrument.

IN TESTIMONY, etc.

### MORTGAGE OF LAND.

[For the statutory form of mortgage (h) follow the Ontario form (see p. 495), except the dower (i) clause, which is unnecessary. Omit also the words "executors and administrators" after the word "heirs."]

[For Acknowledgements of Execution, see pp. 705, 706.]

### ASSIGNMENT OF MORTGAGE.

THIS INDENTURE made the — day of — 19—, between — of —, —, hereinafter called the assignor, of the first part, and — of —, —, hereinafter called the assignee, of the second part.

WHEREAS by a mortgage dated on the — day of — 19—, — [name of mortgagor] did grant and mortgage the land and premises therein described to —, his heirs and assigns, for securing the payment of — dollars, and there is now owing upon the said mortgage —.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars of lawful money of Canada now paid by the assignee to the assignor (the receipt whereof is hereby acknowledged) the assignor doth hereby assign and set over unto the assignee, his executors, administrators and assigns, all that the said before in part recited mortgage and also the said sum of — dollars now owing as aforesaid, together with all moneys that may hereafter become due or owing in respect of the said mortgage and the full benefit of all powers and of all covenants and

(h) R.S.B.C., c. 142.

(i) By the Dower Act (R.S.B.C., c. 63, s. 6) "all partial estates and interests, and all charges created by any disposition or will of a husband, and all debts, incumbrances, contracts, and engagements to which his land shall be subject or liable, shall be valid and effectual as against the right of his widow to dower."



provisoes contained in the said mortgage, and also full power and authority to use the name or names of the assignor, his heirs, executors, administrators or assigns, for enforcing the performance of the covenants and other matters and things contained in the said mortgage. And the assignor doth hereby grant and convey unto the assignee, his heirs and assigns, all that certain parcel of land, etc.

To have and to hold the said mortgage and all moneys arising in respect of the same and to accrue thereon and also the said lands and premises thereby granted and mortgaged to the use of the assignee, his heirs, executors, administrators and assigns, absolutely forever, but subject to the terms contained in such mortgage.

And the assignor, for himself, his heirs, executors, administrators and assigns, doth hereby covenant with the assignee, his heirs, executors, administrators and assigns, that the said mortgage is a good and valid security, and that the sum of — dollars is now owing and unpaid, and that he has not done or permitted any act, matter or thing whereby the said mortgage has been released or discharged either partly or in entirety. And that he will upon request do, perform and execute every act necessary to enforce the full performance of the covenants and other matters contained therein.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[*For Acknowledgements of Execution, see pp. 705, 706.*]

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#### RELEASE OF MORTGAGE.

KNOW ALL MEN by these presents that for and in consideration of the payments of all the principal money and interest secured by a mortgage registered in charge book volume —, folio —, no. —, made by — to me and which mortgage has not been assigned [*or, has been assigned by indenture of assignment registered in charge book —, folio —, no. —, made by — to me*] I, —, do hereby release and convey and reconvey unto —, his heirs and assigns, forever, all that certain parcel of land, situate, etc.

To have and to hold the same unto the said — and his heirs to the use of the said —, his heirs and assigns, forever.

As WITNESS my hand this — day of — 19—.

In the presence of }

\_\_\_\_\_

[*For Acknowledgements of Execution, see pp. 705, 706.*]

\_\_\_\_\_

# MANITOBA.

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## REAL PROPERTY.

There is no dower in land in Manitoba.

The Real Property Act is a system of "Torrens Titles" or titles guaranteed by the provincial government. The "old system" of titles is also common in Manitoba.

Mortgages under the Real Property Act merely charge the lands as security, and do not pass any estate.

Every instrument to be registered under the Real Property Act must, in addition to the usual affidavit of execution, be accompanied by an affidavit that the person dealing with the land is of the full age of twenty-one years, and that he is the registered owner, or is entitled to be registered as such owner. "Owner" includes any person entitled to any estate or interest whatsoever in land. Such affidavit may be in the form on page 713. The affidavit is not needed when a corporation conveys.

The Registrar General at Winnipeg refuses to accept type-written documents of any kind for registration.

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## CONVEYANCE OF LAND.

*(Old system.)*

STATUTORY DEED UNDER "THE SHORT FORMS ACT."

(R.S.M., c. 157.)

THIS INDENTURE made the — day of — in the year of Our Lord one thousand nine hundred and —, in pursuance of the Act respecting Short Forms of Indentures, between — of the [city, town, village, *or*, municipality] of —, in the province of —, —, of the first part, and — of the [city, town, village, *or*, municipality] of —, in the province of —, —, of the second part.

*[Here insert recitals, if any.]*

WITNESSETH that in consideration of [the premises and of (a)] — dollars of lawful money of Canada, now paid by the said party of the [second] part to the said party of the first part (the receipt whereof is hereby by him acknowledged,) he, the said party of the first part, doth grant unto the said party of the [second] part, his heirs and assigns, forever, all and singular, the lands (b) following, that is to say: [describe lands].

To have and to hold (c) unto the said party of the [second] part, his heirs and assigns, to and for his and their sole and only use forever. [Here continue as in the Ontario form at top of p. 335 to end of form, but omitting dower clause; add also such special clauses from pp. 338 to 346 as are required.]

### AFFIDAVIT OF EXECUTION.

OF INSTRUMENT TO BE REGISTERED.

(R.S.M., c. 150, s. 36.)

MANITOBA; } I, —, of the — of — in the province  
To Wit: } of —, —, make oath and say:

1. I was personally present and did see the within instrument [and duplicate thereof] duly signed, sealed and executed by —, [one of] the parties thereto.

2. The said instrument was [or, instrument and duplicate were] executed at —.

3. I know the said party, and he is, in my belief, of the full age of twenty-one years (d).

(a) If no recitals, omit words within these brackets.

(b) Under "The Short Forms Act" (R.S.M., c. 157, s. 5), unless there be something in the subject or context repugnant to such construction, the word "lands" extends to all freehold and leasehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein respectively; and, under s. 4, includes all buildings, trees, fences, ways, waters, water courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever; and, if the deed purports to convey an estate in fee, it includes also reversions, remainders, rents, issues and profits, and all the interest whatsoever of the grantor in, to, out of or upon such lands. See also note (b) on p. 334.

(c) This clause (the habendum) is usually inserted in conveyances, although it does not appear in The Short Forms Act, and is not required unless "uses" are to be declared.

(d) This paragraph is not in the statute, but is adopted as a rule of the registrar's office as a precaution.

4. I am a subscribing witness to the said instrument [and duplicate].

SWORN (e), etc.

## MORTGAGE OF LAND.

(Old system.)

STATUTORY DEED OF MORTGAGE UNDER "THE SHORT FORMS ACT."

(R.S.M., c. 157.)

THIS INDENTURE made the — day of — in the year of our Lord one thousand nine hundred and —, in pursuance of the Act respecting Short Forms of Indentures, between — of — [hereinafter called the mortgagor], of the first part, and — of — [hereinafter called the mortgagee], of the second part.

[Here insert recitals, if any.]

WITNESSETH that in consideration of [the premises and of] — dollars of lawful money of Canada, now paid by the said party of the [second] part to the said party of the first part (the receipt whereof is hereby by him acknowledged), he, the said party of the first part doth grant and mortgage unto the said party of the [second] part all and singular, the lands following, that is to say: [describe lands].

Provided this mortgage to be void [continue as on p. 495, to end of form]. [Special clauses will be found on pp. 497 to 509, including some peculiarly applicable to Manitoba.]

[For Affidavit of Execution, see p. 711.]

## DISCHARGE OF MORTGAGE.

MANITOBA; }  
To Wit: }

To the Registrar of the district of —.  
[Continue as in Ontario forms on pp. 527, 528.]

[For Affidavit of Execution, see p. 711.]

(e) As to whom affidavits may be made before, see Appendix B.

## TRANSFER OF LAND.

## STATUTORY MEMORANDUM OF TRANSFER, UNDER "THE REAL PROPERTY ACT."

(R.S.M., c. 148, s. 78.)

I, A.B. of —, —, being registered owner of an estate [*state the nature of estate*], subject, however, to such incumbrances (*f*), liens and interests as are notified by memorandum underwritten [*or, indorsed hereon*] in all that land described as follows: —, do hereby, in consideration of the sum of \$—, paid to me by E.F. of —, the receipt of which sum I hereby acknowledge, transfer to the said E.F. all my estate and interest in the said piece of land (*g*). [*When a less estate, then describe such less estate.*]

IN WITNESS whereof I have hereunto signed my name this — day of — 19—.

SIGNED in presence of —. }

[*All incumbrances should be underwritten as follows: "Subject to —."*]

[*For Affidavit (h) of Execution, see p. 711.*]

## AFFIDAVIT OF TRANSFEROR

## OF LAND, UNDER "THE REAL PROPERTY ACT."

(R.S.M., c. 148, s. 86 (*h*).)

MANITOBA; } I, —, of the — of — in the province  
To Wit: } of —, —, make oath and say:

(*f*) In every transfer subject to a mortgage or encumbrance there is implied, unless otherwise expressed, a covenant by the transferee that he will pay the interest, annuity or rent charge secured by the mortgage or incumbrance, and indemnify the transferor against liability in respect of covenants (*s. 89*).

(*g*) Under "The Real Property Act" (R.S.M., c. 148, s. 2), "the expression 'land' means and includes land, messuages, tenements, hereditaments, corporeal and incorporeal of every kind and description, whatever the estate or interest therein may be, and whether legal or equitable, together with all paths, passages, ways, water courses, liberties, privileges and easements, appertaining thereto, and all trees and timber thereon, and all mines, minerals and quarries, unless any such are specially excepted."

(*h*) Instruments executed by a registered owner and presented for registration under "The Real Property Act" must be accompanied by affidavits as to execution, identity and age, and such other evidence as the district registrar may require (*s. 86*).

1. I am the transferor named in the within transfer, which I have executed.

2. I am of the full age of twenty-one years.

3. I am the registered owner of the lands mentioned in the within transfer.

SWORN, etc.

## TRANSFER OF LAND

UNDER POWER OF SALE.

(R.S.M., c. 148.)

### THE REAL PROPERTY ACT.

WHEREAS one A.B., by a certain indenture of mortgage made under The Real Property Act the — day of — 19—, and duly registered in the Land Titles Office for —, under number —, did mortgage all his estate and interest in the lands hereinafter particularly described unto C.D. for securing the payment of the sum of — dollars and interest as therein mentioned.

AND WHEREAS default has been made in payment of the said sum of — dollars and interest thereon for more than — month.

AND WHEREAS, in pursuance of the provisions of The Real Property Act, written notice of the intention of the said mortgagee to sell the said lands has been duly served on the said — and on all other parties entitled to such notice, and more than — month has elapsed since the service of the said notice without payment of the amount in arrear, and the said mortgagee did, in exercise of the power of sale under the said Act, cause the said lands to be offered for sale by public auction on — the — day of — 19—, at the auction rooms of —, in the — of —.

AND WHEREAS E.F. was declared to be the highest bidder for and became the purchaser of the said lands at the said sale at and for the sum of — dollars.

NOW THEREFORE I, the said C.D., being registered as owner of the said mortgage upon an estate in fee simple in possession,

subject, however, to such incumbrances, liens and interests as are notified by the memorandum underwritten [*or, indorsed hereon*] in all that land described as follows: —, do hereby, in exercise of the said power of sale conferred upon me by the said mortgage and The Real Property Act, and all other powers thereunto enabling, in consideration of the sum of — dollars paid to me by the said E.F., the receipt of which sum I hereby acknowledge, transfer to the said E.F. all my estate and interest and all the estate and interest of the said A.B. [and of (*names of subsequent incumbrancers, if any*)] and of all persons and corporations whatsoever in the said lands.

IN WITNESS, etc.

SIGNED in presence of }

[*All incumbrances should be underwritten as follows: "Subject to —."*]

[*For Affidavit of Execution, see p. 711.*]

### LEASE OF LAND.

#### STATUTORY MEMORANDUM OF LEASE (i) UNDER "THE REAL PROPERTY ACT."

(R.S.M., c. 148, s. 93.)

#### THE REAL PROPERTY ACT.

I, A.B., of —, being registered as owner, subject, however, to such incumbrances, liens and interests as are notified by memorandum underwritten [*or, indorsed hereon*], of that land described as follows: —, do hereby lease to E.F. of —, all the said land, to be held by him, the said E.F., as tenant for the space of — years from [*here state the date and term*] at the yearly rental of — dollars, payable [*here insert terms of pay-*

(i) Unless a contrary intention appears, the following covenants by the lessee will be implied: To pay the rent reserved, rates and taxes; to keep, and at the termination of the lease yield up, the property in good and tenantable repair (accidents and damage to buildings from fire, lightning, storm and tempest and reasonable wear and tear excepted); and the following powers are implied in the lessor: That the lessor may enter and view state of repair, and on default of payment of rent or fulfilment of any covenant or non-repair for 2 months the lessor may retake possession (R.S.M., c. 148, ss. 93, 94, 95).



ment of rent], subject to the covenants and powers implied [*also set forth any special covenants or modifications of implied covenants*].

IN WITNESS, etc.

SIGNED in presence of }

[*For Affidavit of Execution., see p. 711.*]

## MORTGAGE OF LAND.

### STATUTORY MEMORANDUM OF MORTGAGE UNDER "THE REAL PROPERTY ACT."

(R.S.M., c. 148, s. 99.)

#### THE REAL PROPERTY ACT.

I, A.B., of —, being registered as owner of [*here state nature of estate, or describe mortgage, as case may require*], subject, however, to such incumbrances, liens and interests as are notified by memorandum underwritten [*or, indorsed hereon*], in that piece of land described as follows:—, in consideration of the sum of — dollars lent to me by E.F. of —, the receipt of which sum I do hereby acknowledge, covenant with the said E.F.:

First, That I will pay to him, the said E.F., the above sum of — dollars on the — day of — 19—.

Second, That I will pay interest on the said sum at the rate of — on the dollar in the year by equal payments on the — day of — and on the — day of — in every year.

Third, [*here set forth special covenants, if any*].

[*Mention prior incumbrances, if any (i).*]

And for the better securing to the said E.F. the repayment in manner aforesaid of the principal sum and interest, I hereby mortgage to the said E.F. my estate and interest in the land above described [*or, the said mortgage*].

(i) The mortgage must contain an accurate statement of all mortgages or incumbrances affecting the land (s. 99). This may be underwritten instead of being in the body of the mortgage.

IN WITNESS whereof I have hereunto signed my name this  
— day of — 19—.

SIGNED by the above named A.B. }  
in presence of }

[For Affidavit of Execution, see p. 711.]

### AFFIDAVIT OF MORTGAGOR

OF LAND, UNDER "THE REAL PROPERTY ACT."

(R.S.M., c. 148, s. 99.)

MANITOBA; } I, —, of the — of — in the province  
To Wit: } of —, —, make oath and say:

1. I am the mortgagor named in the within mortgage,  
which I have executed.

2. I am of the full age of twenty-one years.

3. I am the registered owner of the lands mentioned in the  
within mortgage.

SWORN, etc.

### MORTGAGE OF LAND.

(Special form of memorandum of mortgage.)

(R.S.M., c. 148, s. 99.)

### THE REAL PROPERTY ACT.

I, —, of the — of — in the province of —, —,  
hereinafter called the mortgagor, being registered as owner of  
an estate in fee simple in possession, subject, however, to such  
encumbrances, liens and interests as are notified by memorandum  
underwritten or endorsed hereon, in all that piece of land de-  
scribed as follows: All and singular that certain piece or parcel  
of land situate in the — of — in the Province of Manitoba,  
being composed of —, in consideration of the sum of —  
dollars lent to me by — of —, (who and whose heirs, execu-  
tors, administrators and assigns are hereinafter included in the  
expression "the mortgagee,") the receipt of which sum I do  
hereby acknowledge, covenant with the mortgagee:

First, that I will pay to the mortgagee the above sum of — dollars at —, as follows: *[here set out terms of payment]*.

Second, that I will pay interest at the same place on the principal sum remaining from time to time unpaid at the rate of — per cent per annum by [half] yearly payments on the — days of — and — in every year during the currency hereof, the first payment of interest to be made on the — day of — 19—.

*[Here insert such special clauses from pp. 497 to 509 as may be desired, and especially the crop agreements on pp. 501, 503. The "Short Form" covenants do not, however, apply to The Real Property Act, but a mortgagee has, under the Act, the right of entry on default, of distress, of sale after notice, of action on the covenant, and of foreclosure. In adapting the special clauses above mentioned the pronoun should be changed from the third to the first person singular, as in the covenants "First" and "Second" above.]*

*[Mention prior incumbrances, if any (k).]*

And for the better securing to the mortgagee the re-payment in manner aforesaid of the said principal sum and interest and other charges and moneys hereby secured, I hereby mortgage to the mortgagee all my estate and interest in the land above described.

And I and my heirs, executors, administrators and assigns and each of us are bound by the covenants and stipulations herein contained or implied.

IN WITNESS whereof I have hereunto signed my name and affixed my seal the — day of — 19—.

SIGNED, SEALED AND DELIVERED  
by the above named —, as mortgagor,  
*[Having been first read over and explained]*  
in presence of

# TRANSFER OF LEASE, MORTGAGE, OR INCUMBRANCE.

(R.S.M., c. 148, s. 101.)

## THE REAL PROPERTY ACT.

I, A.B., of —, being registered owner of a [lease, or, mort-

(k) See note (j) on p. 716.

gage, or, incumbrance, as the case may be], numbered —, affecting the land hereinafter described, subject to such incumbrances, liens and interests as are herein referred to, in consideration of the sum of — paid to me by C.D., of —, do hereby transfer to the said C. D. the said [lease, or, mortgage or, incumbrance], and all my estate or interest, as such owner in that land described as follows: —, together with all my rights, powers, title and interest therein.

IN WITNESS, etc.

SIGNED in presence of }

[For Affidavit of Execution, see p. 711.]

### AFFIDAVIT OF TRANSFEROR

OF LEASE, MORTGAGE OR INCUMBRANCE.

(R.S.M., c. 148, s. 86.)

MANITOBA; } I, —, of the — of — in the  
To Wit: } province of —, —, make oath and say:

1. I am the within named transferor.
2. I am of the full age of twenty-one years.
3. I am the registered owner of the said [lease, or, mortgage, or, incumbrance].

SWORN, etc.

### DISCHARGE OF MORTGAGE.

(R.S.M., c. 148, s. 104.)

THE REAL PROPERTY ACT.

MANITOBA; } To the District Registrar for the Land  
To Wit: } Titles District of —.

[Continue as in Ontario forms on pp. 527, 528.]

[For Affidavit of Execution, see p. 711.]

## DISCHARGE OF JUDGMENT (1).

MANITOBA; } To the District Registrar for the Land Titles  
To Wit: } District of —.

I, —, of — do certify that — of — has satisfied all money due on or to grow due on a certain judgment recovered by —, in the — court of —, against one —, of the — of — in the Province of Manitoba, for the sum of — dollars, which judgment bears date the — day of — 19—, and a certificate of the said judgment was filed in the — office for the —, on the — day of — 19—, at — minutes past — o'clock in the [fore] noon in liber — for — as no. —, and that such judgment has not been assigned [*or as the case may be*], and that I am the person entitled by law to receive the money; and that such judgment is therefore discharged.

WITNESS my hand this — day of — 19—.

WITNESS:

## AFFIDAVIT OF EXECUTION

## OF DISCHARGE OF JUDGMENT.

MANITOBA; } I, —, of the — of — in the  
To Wit: } province of —, —, make oath and say:

1. I was personally present and did see the within certificate of discharge of judgment duly signed and executed by — [one of] the parties thereto.

2. The said instrument was executed at the —.

3. I know the said party.

4. I am a subscribing witness to the said instrument.

SWORN, etc.

## NOTICE OF SALE

UNDER POWER IN MORTGAGE UNDER OLD SYSTEM (m).

To [names of parties entitled to notice].

I hereby give you notice that I demand payment of the sum of — dollars and interest at the rate of — per cent per annum,

(1) Judgments, when registered, become encumbrances on lands.  
"Fi. fa. lands" are no longer used.

(m) See notes on p. 545, and forms on pp. 545, 546.

from the — day of — 19—, due to me, —, upon a certain indenture of mortgage made by — to me, [or, to —,] dated the — day of — 19—, and registered in the — office for the — of — on the — day of — 19—, for securing the payment of — dollars and interest thereon, as therein mentioned, on the following lands, namely: [*describe lands*].

AND TAKE NOTICE, that unless payment of the said mortgage money and interest, costs and expenses be made within [one calendar month] from the time of your being served herewith, I, the said —, will proceed with or without any consent or concurrence on your part, and without any further notice to you, to enter into possession of the said lands and to receive and take the rents and profits thereof; and whether in or out of possession thereof, to make any lease or leases thereof as I shall see fit; and to sell and absolutely dispose of the said lands, either by auction or private sale, or partly by auction and partly by private sale, as I, the said —, may deem proper, and either for cash or upon such terms of credit as I may think proper, and to convey and assure the said lands when so sold, unto the purchasers thereof, as I shall direct or appoint.

Dated at — the — day of — 19—.

### NOTICE OF SALE

UNDER THE REAL PROPERTY ACT (n).

To [*names of parties entitled to notice* (o)].

I hereby give you notice that I demand payment of the sum of — dollars for principal and interest due under and by virtue of a mortgage made by — to me, —, [or, made to —, and assigned to me, *as the case may be*, which mortgage is] dated the — day of — 19—, and registered in the Land Titles office for the District of — on the — day of — 19—, as number —, for securing payment of — dollars and interest at — per cent per annum, payable [half] yearly, on all [*describe lands*], default having been made in payment of — dollars secured by the said mortgage for the space of over [one calendar month].

(n) See notes on p. 545, and forms on pp. 545, 546.

(o) This notice should be filed in the Land Titles office to avoid the necessity of serving encumbrancers subsequently becoming interested.

AND TAKE NOTICE that I, the said —, intend, without any further consent or concurrence on your part, forthwith to enter into possession of the said lands and to receive and take the rents, issues and profits thereof and whether in or out of possession thereof to make any lease of the same or of any part thereof as I may see fit.

AND FURTHER TAKE NOTICE that unless payment of the said principal money and interest, together with subsequent interest and the costs of these proceedings, be made within one calendar month from your being served with this notice, I, the said —, will proceed to sell and dispose of the said lands in accordance with the provisions of "The Real Property Act," and that all remedies competent will be resorted to and that all the rights, powers and privileges granted to or conferred upon me, the said —, as mortgagee under and by virtue of the said Act and the said mortgage will be exercised.

AND TAKE NOTICE that in the event of the said mortgaged land being offered for sale by public auction and the highest bid at such sale not being sufficient to satisfy the moneys secured by the said mortgage, together with the expenses occasioned by such sale, then I, the said —, after such default shall have continued for six months after the time mentioned in the said mortgage for payment, intend to make an application in writing to the District Registrar for an order for foreclosure as the to said lands.

Dated at — this — day of — 19—.

### APPLICATION

#### TO BRING LAND UNDER OPERATION OF REAL PROPERTY ACT.

To the district registrar of the Land Titles District of —,

I, *[name of applicant or applicants and his or their residence, profession trade or occupation]*, hereby apply to have the land hereinafter described brought under the operation of "The Real Property Act," and declare:

1. That I am *[or, we are each]* of the full age of twenty-one years.

2. That I am the owner of an estate [*if absolute owner, insert, in fee simple in possession; if estate owned be a less one, insert, of freehold in possession for my life, or otherwise, as the case may require*] in all that piece of land being [*describe generally the Crown allotment, or otherwise, according to Crown grant; then give area of the land, and state if the land be part only of that granted, and be not described in any one instrument, as sufficient description to identify the land*].

3. That such land, including all buildings and other improvements thereon, is of the value of — dollars and no more.

4. That there are no documents or evidences of title affecting such land in my possession or under my control, other than those included in the schedule hereto.

5. That I am not aware of any mortgage or incumbrance affecting the said land, or that any other person hath or claims to have any estate or interest therein at law or in equity, in possession, remainder, reversion, or expectancy. [*If there be any, add, other than as follows, and set the same forth.*]

6. That the said land is [un]occupied. [*If occupied, add by whom, and state his name, residence, trade, profession or occupation and the nature of his occupancy.*]

7. That the name and addresses, so far as known to me of the occupants of all lands contiguous to the said land are as follows: [*insert name, residence, trade, profession or occupation, or a person unknown*].

8. That the names and addresses, so far as known to me of the owners of all lands contiguous to the said land are as follows: [*insert name, residence, trade, profession or occupation, or a person unknown*]. [*If the Certificate of Title is not to issue to the applicant, add, and I direct the Certificate of Title to be issued in the name of —, stating name, residence, trade, profession or occupation of the person in whose name title is to issue: and if the land is to be taken in parts, say, as to the land described in the schedule of land marked A, and in the name of — as to the land described in the schedule of land marked B*].

Dated this — day of — 19—,



Made and subscribed at ——— }  
 in the presence of (p) ———. } [Signature of applicant (q).]

SCHEDULES OF DOCUMENTS REFERRED TO.

[If the Crown Grant alone, say, Crown grant of the land: if more than the Grant, the instruments should be numbered. The date of each instrument and the names of the parties to it will suffice.]

[Here insert any necessary schedules of land.]

AFFIDAVIT BY WITNESS

WHERE CERTIFICATE OF TITLE IS TO ISSUE TO A PERSON OTHER THAN THE APPLICANT.

(Practice Rule 4.)

PROVINCE of Manitoba; } I, ———, of the ——— of ———,  
 To Wit: } ———, make oath and say:

1. That I was personally present, and did see the within application duly signed and executed by ——— the party ——— [or, one of the parties] thereto.

2. That the said application was executed at ———.

3. That I [well] know the said applicant, and that he is of the full age of twenty-one years.

4. That I am a subscribing witness to the application.

SWORN, etc.

AFFIDAVIT BY APPLICANT

WHEN NOT THE ORIGINAL GRANTEE.

(Practice Rule 2, Schedule S.)

PROVINCE of Manitoba: } I, ———, of the ——— of ———,  
 To Wit: } ———, make oath and say:

(p) Applicant must sign before the District Registrar or a notary public, justice of the peace, or a commissioner for taking affidavits; if abroad, before a notary public or commissioner for taking affidavits to be used in Manitoba, or a judge of a court of record.

(q) If not the original grantee from the Crown, an affidavit is required. See form below.

1. I am the [attorney, *or*, agent of the] applicant named in the within application, and am of the full age of twenty-one years.

2. I have a personal knowledge of the facts set forth in the said application.

3. The facts, matters and things in the said application mentioned are true in substance and in fact.

SWORN, etc.

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### CAVEAT (r).

FORBIDDING LAND TO BE BROUGHT UNDER REAL PROPERTY ACT.

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#### THE REAL PROPERTY ACT.

To the District Registrar for —.

TAKE NOTICE that I, —, of —, claim [*describe interest*] in the land described as —, in the application of —, and I forbid the bringing of such land under "The Real Property Act." I appoint [*give address*] as the place at which notices and proceedings relating hereto may be served.

Dated this — day of — 19—.

SIGNED in the presence of —.

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### AFFIDAVIT ACCOMPANYING CAVEAT

FORBIDDING LAND TO BE BROUGHT UNDER REAL PROPERTY ACT.

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#### THE REAL PROPERTY ACT.

IN THE MATTER of the application of — to bring under the said Act the lands mentioned therein I, —, of —, make oath and say as follows:

1. The land affected by the caveat dated the — day of — 19—, hereunto annexed, lodged by me with the District Registrar is the land described in the schedule hereto, and my interest in the said land entitles me to object to the said land

(r) This caveat lapses after one month, if proceedings are not taken in court and the registrar notified.

being bought under the said Act without my consent, and the nature of my interest is as follows, viz.:

2. I believe that I have a good and valid claim upon the said lands, and I say that this caveat is not being filed for the purpose of delaying or embarrassing the applicant or any person claiming under him.

The schedule above referred to [*here follows schedule*].

SWORN, etc.

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### CAVEAT FORBIDDING REGISTRATION

UNDER REAL PROPERTY ACT<sup>(s)</sup>.

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#### THE REAL PROPERTY ACT.

To the District Registrar for —.

TAKE NOTICE that I, —, of —, claim [*describe title or interest in the land*] in —, standing in the register in the name of —, and I forbid the registration of any person as transferee or owner of, or of any instrument affecting the said estate or interest [until after notice of any intended registration or registered dealing be given to me at the address hereinafter mentioned, or] unless such instrument be expressed to be subject to my claim.

I appoint [*give address*] as the place at which notices and proceedings relating to this caveat may be served.

Dated this — day of — 19—.

SIGNED in the presence of —.

---

### AFFIDAVIT ACCOMPANYING CAVEAT

FORBIDDING REGISTRATION UNDER REAL PROPERTY ACT.

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#### THE REAL PROPERTY ACT.

IN THE MATTER of —.

I, —, of —, make oath and say as follows:

1. I am the within named caveator.

2. I believe that I have a good and valid claim upon the

(s) This caveat lapses 14 days after notice is given to proceed thereunder, if no steps are taken in pursuance of such notice.

said lands [*mortgagee or encumbrancee*] and I say that this caveat is not being filed for the purpose of delaying or embarrassing any person interested therein or proposing to deal therewith.

SWORN, etc.

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### CHATTEL PROPERTY.

In Manitoba there is no provision, as in Ontario, for registering a "copy" of a chattel mortgage. Every bill of sale and mortgage must be registered "within twenty days from the date thereof" (R.S.M., c. 11, ss. 3, 5), and these words are deemed to exclude either the first or last day (ib. s. 15).

Bills of sale and chattel mortgages by railway companies of their cars, equipment, rolling stock or other chattel property require to be filed with the Provincial Secretary of Manitoba instead of the Clerks of County Courts, and no renewal, or any affidavit of execution or of bona fides is required (Man., 1904, c. 2, s. 1).

When mortgaged goods and chattels are permanently removed from the judicial division in which they were at the time of the execution of the mortgage, to another division, a copy of the mortgage, certified by the Clerk in the office of registration, together with the affidavits and instruments relating thereto, must be registered with the Clerk of the County Court of the division to which the goods are removed, and the renewal—if required—must be filed in the latter division within two years from the date of filing in the former division (R.S.M., c. 11, ss. 29-31).

A chattel mortgage ceases to be valid against creditors or subsequent purchasers or mortgagees in good faith for good or valuable consideration unless a renewal statement is filed within two years from the day the mortgage, or last renewal statement, was registered (ib. ss. 20, 21).

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### BILL OF SALE

#### OF GOODS AND CHATTELS.

(R.S.M., c. 11, s. 3.)

[Same as Ontario form on p. 216. But see note (c) on p. 732.]

## AFFIDAVIT OF EXECUTION

OF BILL OF SALE.

(R.S.M., c. 11, s. 3.)

MANITOBA, } I, —, of the — of — in the — of  
 To Wit: } —, —, make oath and say:

1. I was personally present and did see the foregoing [*or*, annexed] bill of sale duly signed, sealed and executed by —, one of the parties thereto.

2. The name "—" [*signature of witness*] set and subscribed as a witness to the execution thereof is of the proper handwriting of me, this deponent.

3. The said bill of sale was executed at the — of — in the — of —.

SWORN (*t*), etc.

## AFFIDAVIT OF BONA FIDES

BY BARGAINEE (*u*).

(R.S.M., c. 11, s. 3.)

MANITOBA, } I, —, of the — of — in the — of —,  
 To Wit: } —, the bargainee [*or*, one of the bargainees]  
 in the foregoing [*or*, annexed] conveyance or bill of sale named,  
 make oath and say:

That the sale therein made is bona fide and for good or valuable (*v*) consideration, namely, the sum of — dollars, as set forth in the said conveyance, and is not for the purpose of holding or enabling me this deponent [*or*, the bargainees therein named or either of us (*w*)] to hold the goods mentioned therein against the creditors of —, the bargainor therein named.

SWORN, etc.

(*t*) As to whom affidavits may be made before, see Appendix B.

(*u*) When there are two or more bargainees, one of them may make the affidavit (R.S.M., c. 11, s. 12). When the sale is to an incorporated company, see form on p. 729.

(*v*) The words "or valuable" are not in the Ontario Act.

(*w*) If there are more than two bargainees say "enabling the bargainees therein named or any one or more of us."

## AFFIDAVIT OF BONA FIDES

BY AGENT OF BARGAINEE.

(R.S.M., c. 11. ss. 3, 12.)

MANITOBA, } I, —, of the — of — in the — of —,  
To Wit: } —, make oath and say:

1. I am the duly authorized (x) agent of —, the bargainee in the foregoing [or, annexed] conveyance or bill of sale named for the purposes of the said conveyance, and I am aware of all the circumstances connected with the sale.

2. The sale therein made is bona fide and for good or valuable consideration, namely the sum of — dollars, as set forth in the said conveyance, and is not for the purpose of holding or enabling the said bargainee to hold the goods mentioned therein against the creditors of —, the bargainor therein named.

SWORN, etc.

## AFFIDAVIT OF BONA FIDES

OF BILL OF SALE, BY OFFICER OF A COMPANY (y).

(R.S.M., c. 11. ss. 3, 12, 38.)

MANITOBA, } I, —, of the — of —, in the — of  
To Wit: } —, —, make oath and say:

1. I am the [manager, or as the case may be] of the — Company, the bargainee in the foregoing [or, annexed] conveyance or bill of sale named, and I am aware of all the circumstances connected with the sale.

2. The sale therein made is bona fide and for good or valuable consideration, namely the sum of — dollars, as set forth in the said conveyance, and is not for the purpose of holding or enabling the said bargainee to hold the goods mentioned therein against the creditors of —, the bargainor therein named.

SWORN, etc.

(x) The statute does not require that the agent's authority shall be in writing, but as a matter of evidence it is desirable that it should be so. Forms of authority will be found on pp. 220, 222, 275, 276, 277.

(y) This affidavit may be made by the president or other head officer, or by the vice-president, manager, treasurer or secretary of the corporation, whether it be a foreign or domestic corporation, and whether such officer is or is not resident in the province; and in the case of a foreign corporation, the affidavit may be made by any general or local manager, secretary or agent of the corporation in the province (R.S.M., c. 11, s. 38).

## CHATTEL MORTGAGE.

*(General form.)*

(R.S.M., c. 11, s. 5.)

[Same as Ontario form on p. 242. But when the mortgage is for the purchase price of seed grain, see p. 732.]

## AFFIDAVIT OF EXECUTION

OF CHATTEL MORTGAGE.

(R.S.M., c. 11, s. 5.)

MANITOBA, } I, —, of the — of — in the — of  
To Wit: } —, —, make oath and say:

1. I was personally present and did see the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (z)] duly signed, sealed and executed by —, one of the parties thereto.

2. The name "—" [signature of witness] set out and subscribed as a witness to the execution thereof is of the proper handwriting of me, this deponent.

3. The said mortgage [or, bill of sale by way of mortgage] was executed at the — of — in the — of —.

SWORN, etc.

## AFFIDAVIT OF BONA FIDES

BY MORTGAGEE.

(R.S.M., c. 11, s. 5.)

[Same as Ontario forms on pp. 252, 253.]

## AFFIDAVIT OF BONA FIDES

BY AGENT OF MORTGAGEE.

(R.S.M., c. 11, ss. 5, 12.)

MANITOBA; } I, —, of the — of — in the — of  
To Wit: } —, —, make oath and say:

1. I am the duly authorized (a) agent of —, the mortgagee

(z) See note (h) on p. 252.

(a) See note (x) on p. 729.

in the foregoing [*or, annexed*] mortgage [*or, bill of sale by way of mortgage*] named for the purposes of the said mortgage, and I am aware of all the circumstances connected therewith (*b*).

2. That —, the mortgagor in the foregoing [*or, annexed*] mortgage named, is justly and truly indebted to —, the mortgagee therein named, in the sum of — dollars mentioned therein.

3. The said mortgage was executed in good faith and for the express purpose of securing the payment of the money so justly due or accruing due as aforesaid and not for the purpose of protecting the goods and chattels mentioned in the said mortgage against the creditors of the said —, the mortgagor therein named, or of preventing the creditors of such mortgagor from obtaining payment of any claim against the said mortgagor.

SWORN (*d*), etc.

## AFFIDAVIT OF BONA FIDES

### OF CHATTEL MORTGAGE.

BY OFFICER OF A COMPANY (*e*).

(R.S.M., c. 11, ss. 5, 12, 38.)

MANITOBA, } I, —, of the —, of — in the — of  
To Wit: } —, —, make oath and say:

1. I am the [manager, *or as the case may be*] of the — Company, the mortgagee in the foregoing [*or, annexed*] mortgage [*or, bill of sale by way of mortgage*] named, and I am aware of all the circumstances connected with the said mortgage (*b*).

2. That —, the mortgagor in the foregoing [*or, annexed*] mortgage named is justly and truly indebted to the — Company, the mortgagee therein named, in the sum of — dollars mentioned therein.

3. The said mortgage was executed in good faith and for the express purpose of securing the payment of the money so justly

(*b*) When the mortgage is given for the purchase price of seed grain, insert here the clause from the "Affidavit of Bona Fides by Mortgagee," on p. 732.

(*c*) See note (*y*) on p. 729.

(*d*) As to whom affidavits may be made before, see Appendix B.



due or accruing due as aforesaid, and not for the purpose of protecting the goods and chattels mentioned in the said mortgage against the creditors of the said —, the mortgagor therein named, or of preventing the creditors of such mortgagor from obtaining payment of any claim against the said mortgagor.

SWORN, etc.

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#### SEED GRAIN MORTGAGE.

(R.S.M., c. 11, ss. 39, 40.)

*[When a mortgage is given as security for the purchase price of seed grain (e) the following recital should be inserted:*

"WHEREAS the mortgagee has sold and delivered to the mortgagor — bushels of [*describe grain*] for the purpose of seedling [*describe land*], and has requested the mortgagor to execute this indenture for the purpose of securing the said purchase price and interest thereon as hereinafter mentioned."

*In other respects the Ontario form on p. 242 may be used, taking such clauses as are appropriate, and substituting the word "crops" for the words "goods and chattels."*

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*[For Affidavit of Execution, see p. 730.]*

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#### AFFIDAVIT OF BONA FIDES

BY MORTGAGEE.

SEED GRAIN MORTGAGE.

(R.S.M., c. 11, s. 41.)

*[Use the Ontario forms on pp. 252 to 254, but insert the following before clause 2:*

"2. The said mortgage [*or, bill of sale by way of mortgage*] is taken to secure the purchase price of seed grain, as therein set forth."

(e) A mortgage upon growing crops or crops to be grown, made or created to secure the purchase price of seed grain, with or without interest, is a first and preferential security for the sum mentioned in the mortgage, and takes priority over all other chattel mortgages previously given and over every writ of execution in the hands of a sheriff or county court bailiff (R.S.M., c. 11, s. 40), and every mortgage, bill of sale, lien, charge, incumbrance, conveyance, transfer or assignment intended to bind any growing crops or crop to be grown in the future is absolutely void unless given as security for the purchase price, and interest thereon, of seed grain (*ib. s. 39*).

## CHATTEL MORTGAGE

TO SECURE FUTURE ADVANCES.

(R.S.M., c. 11, s. 6.)

[The Ontario forms on pp. 265, 267, may be used, but the date or repayment of the advances must not be more than two years from the date of the mortgage, instead of one year as in the Ontario Act.]

—  
[For Affidavit of Execution, see p. 730.]

## AFFIDAVIT OF BONA FIDES

BY SOLE MORTGAGEE, OR BY ONE OF SEVERAL MORTGAGEES.

MORTGAGE TO SECURE FUTURE ADVANCES.

(R.S.M., c. 11, s. 6.)

[Same as Ontario forms on pp. 268, 269.]

## AFFIDAVIT OF BONA FIDES

BY AGENT OF MORTGAGEE.

MORTGAGE TO SECURE FUTURE ADVANCES.

(R.S.M., c. 11, s. 6.)

MANITOBA; } I, —, of the — of — in the — of  
To Wit: } —, —, make oath and say:

1. The agreement set forth in the foregoing [or, annexed] mortgage [or, bill of sale by way of mortgage (f)] was entered into, and the said mortgage was taken by me for and on behalf of —, the mortgagee therein named, and I am the agent of the said mortgagee duly authorized (g) to make such agreement and take such mortgage, and I am aware of all the circumstances connected therewith.

2. The said mortgage truly sets forth [continue as on p. 270, para. 3, to end of form].

(f) See note (h) on p. 252.

(g) See note (x) on p. 729.

## CHattel Mortgage

TO SECURE MORTGAGEE AGAINST LIABILITY AS INDORSER  
FOR MORTGAGOR.

(R.S.M., c. 11, s. 6.)

*[The Ontario form on p. 256 may be used, but the time of payment of the note must not be more than two years from the date of the mortgage, instead of one year as in the Ontario Act.]*

*[For Affidavit of Execution, see p. 730.]*

## AFFIDAVIT OF BONA FIDES

BY MORTGAGEE, OR BY ONE OF SEVERAL MORTGAGEES.  
MORTGAGE TO SECURE INDORSER.

(R.S.M., c. 11, s. 6.)

*[Same as Ontario forms on p. 262.]*

## AFFIDAVIT OF BONA FIDES

BY AGENT OF MORTGAGEE.

MORTGAGE TO SECURE INDORSER.

(R.S.M., c. 11, s. 6.)

MANITOBA; } I, —, of the — of — in the — of  
To Wit: } —, —, make oath and say:

1. The foregoing [*or, annexed*] mortgage [*or, bill of sale by way of mortgage (h)*] was taken by me for and on behalf of —, the mortgagee therein named, and I am the agent of the said mortgagee duly authorized (*i*) to take the said mortgage, and I am aware of all the circumstances connected therewith.

2. The said mortgage truly sets forth the agreement entered into between —, the mortgagor, and the said —, the mortgagee, and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage.

3. The said mortgage was and is executed [*continue as on p. 264, third line, to end of form*].

(h) See note (h) on p. 252.

(i) See note (x) on p. 729.

## AFFIDAVIT OF BONA FIDES.

MORTGAGE BY A COMPANY TO SECURE BONDS OR DEBENTURES.

(Man., 1904, c. 2, s. 1.)

[Same as Ontario form on p. 264 (j).]

## ASSIGNMENT OF CHATTEL MORTGAGE.

(R.S.M., c. 11., s. 13.)

[Same as Ontario form on p. 272, with Affidavit of Execution as on p. 273. The assignment, together with the Affidavit of Execution and Affidavit of Bona Fides (below), must be registered within 20 days from the date of the assignment.]

## AFFIDAVIT OF BONA FIDES

BY ASSIGNEE OF CHATTEL MORTGAGE.

(R.S.M., c. 11, s. 13.)

MANITOBA; } I, —, of the — of — in the — of  
To Wit: } —, —, make oath and say:

1. I am the assignee named in the foregoing [or, annexed] assignment of chattel mortgage.

2. The sale therein made is bona fide and for good or valuable consideration, namely, the sum of — dollars, as set forth in the said assignment, and is not for the purpose of holding or enabling me, the said assignee, to hold the goods mentioned therein against the creditors of —, the assignor therein named.

SWORN, etc.

## STATEMENT ON RENEWAL

OF CHATTEL MORTGAGE.

(R.S.M., c. 11, s. 20.)

[Same as Ontario form on p. 277, but the statement and affidavits may be filed within two years (instead of one year, as in Ontario.) from the date of the registration of the mortgage.]

(j) The Manitoba statute is taken verbatim from the Revised Statutes of Ontario, c. 148, s. 23. The latter has since been amended (Ont., 1904, c. 10, s. 36) so as to include all incorporated companies, and the Manitoba legislature will probably soon follow suit, but in the meantime the Manitoba statute only applies to companies incorporated by an Imperial or Dominion Act, or charter, or incorporated or licensed under an Act or charter of Manitoba. Notes (q), (r) and (s) on p. 264, apply also to the Manitoba law.

## AFFIDAVIT ON RENEWAL

OF CHATTEL MORTGAGE (*k*).

(R.S.M., c. 11, ss. 20-22.)

MANITOBA; } I, —, of the — of — in the — of  
 To Wit: } —, —, the mortgagee [*or*, the agent, *or*, the  
 assignee of the mortgagee, *or*, one of the mortgagees, *or*, assignees]  
 named in the chattel mortgage mentioned in the foregoing [*or*,  
 annexed] statement, make oath and say:

1. The forgoing [*or*, annexed] statement is true.
2. The chattel mortgage mentioned in the said statement  
 has not been kept alive (*l*) for any fraudulent purpose.

SWORN, etc.

## DISCHARGE OF CHATTEL MORTGAGE.

[See Ontario forms on pp. 281, 282, but for the Affidavit of  
 Execution, see below.]

## AFFIDAVIT OF EXECUTION

## OF DISCHARGE OF CHATTEL MORTGAGE.

(R.S.M., c. 11, s. 26.)

MANITOBA; } I, —, of the — of — in the province  
 To Wit: } of —, —, make oath and say:

1. I was personally present and did see the within [*or*,  
 annexed] certificate of discharge of chattel mortgage duly signed  
 and executed by —, one of the parties thereto.
2. The said certificate was executed at the — of — on  
 the — day of — 19—.
3. I know the said party.
4. I am a subscribing witness to the said certificate.

SWORN, etc.

(*k*) This affidavit may be made by one of several mortgagees or  
 assignees, or by the agent of any mortgagee or assignee, or by any next  
 of kin, executor or administrator of any deceased mortgagee, or by any  
 assignee claiming by or through any mortgagee or any next of kin, executor  
 or administrator of any such assignee, or by the agent of such next of kin,  
 executor, administrator or assignee (R.S.M., c. 11, ss. 20, 22).

(*l*) In the Ontario Act, the expression used is "kept on foot."

## NEW BRUNSWICK.

### DEED OF LAND.

THIS INDENTURE made this — day of — 19—, between — of —, —, of the first part, and — of —, —, of the second part.

WITNESSETH that the said —, for and in consideration of the sum of — dollars of lawful money of Canada to him in hand well and truly paid by the said — at or before the ensealing and delivery of these presents (the receipt whereof is hereby acknowledged), hath granted, bargained, sold and released and by these presents doth grant, bargain, sell and release unto the said —, his heirs and assigns, all that certain parcel of land, situate, etc., together with all houses, barns, buildings, edifices, fences, improvements, profits, privileges and appurtenances to the same belonging, or in any manner appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also, also all the estate, right, title, (a) interest, use, possession, property, claim and demand, both at law and in equity, of him, the said —, of, in, to or out of the same, and every part and parcel thereof, with the appurtenances, to have and to hold the said land and premises hereby granted, bargained and sold, or meant, mentioned or intended so to be, and every part and parcel thereof, with the appurtenances, unto the said —, his heirs and assigns, to the only proper use, benefit and behoof of the said —, his heirs and assigns, forever.

[(b) And the said —, for himself, his heirs, executors and administrators, doth hereby covenant to and with the said —, his heirs and assigns, that he is lawfully seised of the

(a) If the grantor is married his wife should be made a party with him, and the words "dower, right of dower" should be inserted here, and the acknowledgement should be in the form for a man and his wife.

(b) This warranty clause is not usually inserted; it is used when there is some doubt as to the vendor's title, and the purchaser is willing to take a deed with the vendor's warranty.

before granted and bargained premises, and has good right to bargain and sell the same in manner and form as before written, and that he will warrant and forever defend the same unto the said —, his heirs and assigns, against the lawful claims and demands of all persons whomsoever.]

IN WITNESS whereof the said — has hereunto set his hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED }  
in presence of }

### ACKNOWLEDGEMENT

OR CERTIFICATE OF EXECUTION (c)

WHEN GRANTOR (d) IS UNMARRIED.

PROVINCE of New Brunswick, } I, —, a notary public,  
City and county of Saint John. } duly commissioned, appointed and sworn in and for the Province of New Brunswick, residing and practising at the [city of Saint John], in the said province, do hereby certify that on this — day of — 19—, before me at the said [city of Saint John] personally came and appeared —, the grantor named in the foregoing [deed, or, mortgage, or as the case may be], and acknowledged that he signed, sealed, executed and delivered the said [deed, or as the case may be] as and for his act and deed to and for the uses and purposes therein expressed and contained.

IN TESTIMONY whereof I, the said notary public, have hereunto set my hand and affixed my notarial seal on the day and year in this certificate written, at the said [city of Saint John].

—, Notary Public,  
New Brunswick.

(c) The execution of a deed or other instrument may also be proved by the oath of the subscribing witness. This form is, however, not so usual, nor can it be used in the case of a married woman, who must in all cases acknowledge the execution separate and apart from her husband before a person qualified to take acknowledgements of deeds and other instruments.

(d) This form and the one next following may be used for all descriptions of conveyances in this province by substituting the word "mortgagor," as or the case may be, for the word "grantor" where it occurs.

## ACKNOWLEDGEMENT

OR CERTIFICATE OF EXECUTION (e).

WHEN GRANTOR (f) IS A MARRIED MAN.

Province of New Brunswick. } I, —, a notary public  
 City and county of Saint John. } duly commissioned, appointed  
 and sworn in and for the Province of New Brunswick,  
 residing and practising at the [city of Saint John] in the said  
 province, do hereby certify that on this — day of — 19—,  
 before me at the said [city of Saint John] personally came and  
 appeared —, and — his wife, [two (g) of] the grantors  
 named in the foregoing [deed, or, mortgage, or as the case may  
 be] and severally acknowledged that they signed, sealed, executed  
 and delivered the said [deed, or as the case may be] as and for  
 their respective act and deed to and for the uses and purposes  
 therein expressed and contained; and that the said —, wife  
 of the said —, being by me duly examined separate and  
 apart from her said husband acknowledged that she so signed,  
 sealed, executed and delivered the said [deed] freely and vol-  
 untarily under any threat, fear or compulsion of or from her  
 husband.

IN TESTIMONY, etc.

## MORTGAGE OF LAND.

THIS INDENTURE made this — day of — 19—, between  
 — of —, hereinafter called the mortgagor, of the first part,  
 and — of —, hereinafter called the mortgagee, of the second  
 part.

WITNESSETH that in consideration of — now paid by  
 the mortgagee to the mortgagor, the receipt whereof is hereby  
 acknowledged, the mortgagor doth grant, bargain, sell, release,  
 convey and confirm unto the mortgagee, his heirs and assigns,  
 all that certain parcel of land, etc., together with all the build-  
 ings and improvements thereon, and the rights, members, privi-  
 leges and appurtenances to the said land and premises belonging

(e) See note (c) on p. 738.

(f) See note (d) on p. 738.

(g) If there are other grantors in addition to those included in this  
 acknowledgement, the words "two of," or as the case may be, will be  
 inserted here.



or in any manner appertaining, and the reversions and remainders, rents, issues and profits thereof; and also all the estate, right, title, dower, right of dower, property claim and demand both at law and in equity of the mortgagor of, in, into, out of and upon the said lands and premises and every part and parcel thereof, to have and to hold the said lands and premises hereby conveyed, or meant, mentioned or intended so to be, with the appurtenances and every part and parcel thereof unto and to the use of the mortgagee, his heirs and assigns, forever.

And it is covenanted and agreed by and between the parties hereto that the word "mortgagor" when hereafter used shall mean and include the mortgagor, his heirs, executors, administrators and assigns, and that the word mortgagee when hereinafter used shall mean and include the mortgagee, his heirs and assigns, and all covenants on the part of the mortgagor hereinafter contained shall be and be deemed to be covenants by the mortgagor, his heirs, executors, administrators and assigns, to and with the mortgagee, his heirs and assigns.

Provided always, that if the mortgagor do and shall well and truly pay unto the mortgagee the just and full sum of — dollars of lawful money of Canada in — years from the date hereof with interest thereon at the rate of — per centum per annum as follows: —; interest on all principal remaining unpaid at the rate aforesaid to be paid [half] yearly on the — days of — [and —] in each and every year until the said principal sum shall be fully paid and satisfied, and after as well as before the maturity of this mortgage at the said rate, the first of said instalments of interest to become payable on the — day of — 19—, and interest on overdue interest to be paid as hereinafter provided without any abatement whatsoever, and until such default as aforesaid shall and will well and truly pay, do and perform all matters and things in this proviso hereinbefore set forth, as well as all covenants and agreements in these presents contained, then these presents, and everything therein contained shall be absolutely null and void.

Provided (*h*) always, that if default shall be made in the payment of the said mortgage moneys or interest hereby secured, or of any instalment, or any part thereof, according to the true

(*h*) This power of sale clause to be inserted if desired

intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the mortgagor to be performed in whole or in part, that then, and in any such case, it shall be lawful for the mortgagee at any time thereafter, on giving one calendar month's notice in writing to the mortgagor, or on notice being published in one or more of the public newspapers published in — in the said province, or in case none then there published, then in the Royal Gazette for one calendar month, absolutely to sell and dispose of the said lands and premises, and their appurtenances, or any part or parts thereof, either by public auction or private contract, or part thereof one way and part the other, for such price or prices as to the mortgagee shall seem reasonable; and that all contracts which shall be entered into, and all conveyances which shall be executed by the mortgagee, for the purpose of effecting any such sale shall be valid and effectual, notwithstanding the mortgagor shall not join therein or assent thereto, and that it shall not be incumbent on the respective purchasers of the said premises, or any part thereof, to ascertain or enquire, whether such notice of sale has been given, and further that all sums realized by the mortgagee by any sale of the said premises, or under any policy of insurance, under the provision hereinafter contained, shall be applied to the payment of all expenses incurred in realizing the same and interest thereon, and the balance shall be applied so far as may be required to the satisfaction of the debt and other amounts secured hereby, and the balance, if any, shall be paid, to the mortgagor, his heirs or assigns.

And the mortgagor hereby covenants with the mortgagee as follows:

1. The mortgagor shall and will pay unto the mortgagee the said sum of — dollars, with interest for the same as aforesaid at the days and times, and in the manner above limited for the payment thereof, and shall pay and satisfy all rates, taxes and public charges now due in respect of the said premises, as well as all such which hereafter during the said term and until payment of the moneys hereby secured, with interest, shall become due, and be assessed, levied or imposed in respect

of the said premises; and also shall likewise repay to the mortgagee all rates, taxes and public charges which the mortgagee may be obliged to pay in respect of the said premises, and all other proper outlays not covered by any other covenant herein, and shall in everything faithfully do, observe, perform, fulfil and keep all and singular the covenants, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents and of the above proviso.

2. (i) That the mortgagor shall, during the continuance of this security, insure and keep insured against loss or damage by fire, in such proportions upon each building as may be required by the mortgagee all buildings which are, or may be upon the said lands, in the sum of not less than — dollars, in some insurance office, to be approved of by the mortgagee to whom the loss shall in such policy be made payable, and pay all premiums as they shall become due, and forthwith assign and deliver and keep assigned and delivered to the mortgagee all such policies and renewal receipts thereto appertaining, and in case of any breach of the foregoing covenant in respect of insurance the mortgagee may effect such insurance as he shall see fit, not exceeding the amount aforesaid, and the premiums which the mortgagee may pay in respect thereof shall be repayable by the mortgagor to the mortgagee with interest at the rate aforesaid from the respective times of payment, and until repayment shall be a further charge on the said premises, and the mortgagee shall have a lien for the mortgage debt on all insurance on the said buildings, whether effected under this covenant or not.

3. (i) That the mortgagor has a good and perfect title in the said premises, and has good right, full power and lawful authority to grant, mortgage and convey the same in the manner and form as they are hereby granted, mortgaged and conveyed, or intended so to be, and also that the mortgagor the said premises and every part thereof unto the mortgagee against the lawful claim of all persons whomsoever shall and will by these presents warrant and forever defend.

4. (i) That on default of payment of any portion of the

(i) This clause may be omitted if not required.

moneys hereby secured the whole of the moneys hereby secured shall become payable.

5. (j) That the taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants, or affect the mortgagee's right to interest at the rate and times aforesaid.

IN WITNESS, etc.

SIGNED, SEALED, etc.

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[For Acknowledgement of Execution, see pp. 738, 739.]

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### QUIT CLAIM DEED.

KNOW ALL MEN by these presents that —, for and in consideration of the sum of — dollars of lawful money of Canada to the said — in hand well and truly paid by —, the receipt whereof is hereby acknowledged, hath bargained, sold, remised, released and quit claimed, and by these presents, doth bargain, sell, remise, release and quit claim unto the said —, his heirs and assigns, all [*describe lands*], together with all the estate, right, title, interest, dower, right of dower, claim or demand of the said — of, in, or to the said described and bargained premises, with the appurtenances. To have and to hold the before described premises, with all the improvements and privileges belonging to the same, unto the said —, his heirs and assigns, for ever.

IN WITNESS, etc.

SIGNED, SEALED, etc.

(j) This clause may be omitted if not required.

# NORTH-WEST TERRITORIES.

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## CONSTITUTION AND LAWS.

By the Alberta Act (*a*) and the Saskatchewan Act (*b*), the provinces of Alberta and Saskatchewan were respectively constituted, and the territory now comprised in these provinces ceased to be a part of the North-West Territories.

The North-West Territories, as now constituted by the North-West Territories Amendment Act, 1905 (*c*), is defined as follows: "The North-West Territories shall hereafter comprise the territories formerly known as Rupert's Land and the North-Western Territory, except such portions thereof as form the provinces of Manitoba, Saskatchewan and Alberta, the district of Keewatin and the Yukon Territory, together with all British territories and possessions in North America and all islands adjacent to any such territories or possessions except the colony of Newfoundland and its dependencies."

By the same Act, authority is given for the appointment of a Commissioner of the North-West Territories, and the executive powers vested by the North-West Territories Act (*d*) in the Lieutenant-Governor of the North-West Territories or in the Lieutenant-Governor in Council shall be exercised by the Commissioner, who with four other persons shall form a Council for the administration of the territories. The Commissioner in Council has the same powers to make ordinances for the government of the territories as are by the North-West Territories Act vested in the Legislative Assembly of the territories.

The Land Titles Act (*e*) applies to "the North-West Territories, the districts of Keewatin and all other territories of

(*a*) Can. 1905, c. 3.

(*b*) Can. 1905, c. 42.

(*c*) Can. 1905, c. 27.

(*d*) R. S. C., c. 50.

(*e*) Can. 1894, c. 28.

Canada," but by the Act constituting the Province of Alberta (and the same with the Province of Saskatchewan), the Land Titles Act continues also to apply to these provinces until repealed by the provinces respectively. This has not yet been done, and the forms given under "Alberta" apply equally to the provinces of Alberta and Saskatchewan and the North-West Territories as now constituted. These forms may therefore be used for the Territories by substituting the words "North-West Territories" for the word "Alberta" where it occurs.

Land descends to the personal representatives of the deceased owner in the same manner as personal estate now does, and is dealt with and distributed as personal estate. Before the personal representatives of the deceased owner of land for which a certificate has been granted can deal with such land he must make application, in writing, to the registrar to be registered as owner by way of transmission, and produce to the registrar the probate of the will of the deceased owner, or letters of administration, or the order of the court authorizing him to administer the estate of the deceased owner or a duly certified copy of such probate, letters of administration, or order, as the case may be; and thereupon the registrar shall enter a memorandum thereof upon the certificate of title (*f*).

No words of limitation are necessary in any transfer of land, but the instrument shall operate as an absolute transfer of all such right and title as the transferror had at the time of its execution (*g*).

There is no dower in real property, but the widow has the same right in her deceased husband's land as if it were personal property. There is no tenancy by the curtesy (*h*).

A husband and wife may make valid transfers of land to each other without the intervention of a trustee. A married woman has all the rights of a feme sole (*i*).

A holograph will written and signed by the testator himself, though not witnessed, is valid (*j*).

(*f*) Can. 1894, c. 28, s. 3; 1900, c. 21, ss. 4, 5.

(*g*) Can. 1894, c. 28, s. 4.

(*h*) Can. 1894, c. 28, ss. 6, 7.

(*i*) Can. 1894, c. 28, ss. 9, 11.

(*j*) Can. 1905, c. 27, s. 11.

# NOVA SCOTIA.

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## REAL PROPERTY.

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The law relating to real property in this province at the present time is to be found in R.S.N.S., chapters 136 to 140, and in The Land Titles Act (N. S., 1904, c. 47). This latter Act does not come into force in any registration district until a proclamation to that effect is issued by the Governor in Council; this has not yet been done, and it has, therefore, been decided to omit for the present any forms under this Act. Apart from the Land Titles Act there are no statutory forms relating to real property.

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## DEED OF LAND.

THIS INDENTURE made the — day of — 19—, between — of the — of —, —, of the one part, and — of the — of —, —, of the other part.

WITNESSETH that the said —, in consideration of the sum of — dollars of lawful money of Canada to the said — paid by the said — at or before the execution of these presents, the receipt whereof is hereby acknowledged, doth grant, bargain, sell, enfeoff, release, convey and confirm unto the said —, his heirs and assigns, all [*here describe property*] together with the buildings, hereditaments, easements and appurtenances to the same belonging, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest claim and demand of the said — of, in or to the same.

To have and to hold the said land and premises, with the appurtenances, unto the said —, his heirs and assigns, to his and their sole use, benefit and behoof forever. And (a) the said —, for himself, his heirs, executors and administrators, hereby covenants with the said —, his heirs, executors, ad-

(a) If a "Deed without Warranty" is required, omit the covenants for title.

ministrators and assigns, that he, the said —, has a good, sure, perfect and indefeasible estate of inheritance in fee simple in the said land and premises, and has also good right, full power and absolute authority, to grant and convey the same in manner and form aforesaid according to the true intent and meaning hereof, and that they are free from all incumbrances [*or as the case may be*].

And that the said —, his heirs and assigns, shall and may, at all times hereafter, peaceably and quietly enter into, hold and enjoy the said land and premises, with the appurtenances, without the suit, hindrance, denial or disturbance of, from or by the said —, or any person whomsoever, lawfully claiming the same or any part thereof.

And also that the said — and his heirs the said land and premises unto the said —, his heirs and assigns, against the lawful claims and demands of all persons whomsoever shall and will by these presents warrant and forever defend.

And (b) that he the said —, his heirs, executors and administrators, at the request and at the charges of the said —, shall and will from time to time and at all times hereafter execute or cause to be executed such further and other acts, conveyances and assurances in the law for the better assuring to the said —, his heirs or assigns, of the lands and premises above described in manner as above conveyed or mentioned or intended so to be as by the said —, his heirs or assigns, or his or their counsel in the law, shall be reasonably advised or required.

IN WITNESS, etc.

SIGNED, SEALED, etc.

## OATH OF EXECUTION

FOR WITNESS (c).

PROVINCE OF NOVA SCOTIA } ON this — day of — 19—,  
S.S. } before me, the subscriber, personally came and appeared — of —, the subscribing witness to

(b) This covenant for further assurance, although not usually inserted, may be extremely useful for removing a cloud on the title at any later period.

(c) "The execution of any instrument, except where otherwise provided, may be proved (i) by the acknowledgement under oath by the



the foregoing indenture, who having been by me duly sworn, made oath that — and —, the parties thereto, executed the same in his presence.

[Signature of notary, commissioner, etc.]

### CERTIFICATE OF EXECUTION

AND ACKNOWLEDGEMENT BY MARRIED WOMAN (d).

(Form for use outside of Nova Scotia when the instrument is to be recorded therein (c).)

PROVINCE of —, } I, —, of the — of — in the  
County of —. } county of — and province of —, a  
notary public by Royal authority duly appointed and sworn,  
residing and practising therein do hereby certify that on this  
— day of — 19—, before me personally came and appeared  
—, the subscribing witness to the foregoing indenture, who  
having been by me duly sworn made oath and said that —,  
the party thereto, duly signed, sealed and executed the same in  
his presence.

And that on this — day of — instant before me personally came and appeared — wife of — mentioned in the foregoing indenture, who having been examined by me separate and apart from her said husband did declare and acknowledge that she executed the said indenture as and for her own act and deed freely and voluntarily, without fear, threat or compulsion of, from, or by her said husband and for a full release of all her claims to the lands therein described.

IN TESTIMONY whereof I have hereunto set my hand and affixed my official seal this — day of — 19—.

—,  
A Notary Public in and for the province of —.

parties executing any such instrument of the execution thereof; or (ii) by the oath of a subscribing witness to any such instrument that the parties thereto executed the same in his presence." (R.S.N.S., c. 137, s. 25.)

"In any case, either within or without the province, the execution of an instrument by the parties thereto in the presence of any of the functionaries (see Appendix B. under "Nova Scotia") authorized to take the acknowledgement of such parties of the execution by them of such instrument, may be substituted for such acknowledgement under oath, and in such case the certificate shall be varied accordingly." (ib. s. 28.)

(d) A married woman may acquire, hold and dispose of real and personal property as her separate property as if she were a feme sole (R.S.N.S., c. 112, s. 4).

## CERTIFICATE OF EXECUTION

BY MARRIED WOMAN (*d*).

(R.S.N.S., c. 114, s. 4, Sch. Form A.)

(*Form for use in Nova Scotia.*)

PROVINCE of { Be it remembered, that on this — day of  
 Nova Scotia, { — 19—, before me the subscriber per-  
 S.S. { sonally came and appeared —, wife of —  
 mentioned in the foregoing indenture, who having been by  
 me examined separate and apart from her said husband, did  
 declare and acknowledge that she executed the said indenture as  
 and for her act and deed freely and voluntarily and without fear,  
 threat or compulsion of, from or by her said husband, and for  
 a full release of all her claims to the lands therein mentioned.

[*Signature of notary or commissioner, etc.*]

## QUIT CLAIM DEED.

THIS INDENTURE made this — day of — 19—, between  
 — of the — of —, —, of the one part, and — of the  
 — of —, —, of the other part.

WITNESSETH that the said — in consideration of the sum  
 of — dollars of lawful money of Canada to the said — paid  
 by the said — at or before the execution of these presents,  
 the receipt whereof is hereby acknowledged, doth remise, release  
 and forever quit claim to the said —, his heirs and assigns all  
 [*here describe property*] and the buildings, hereditaments, ease-  
 ments and appurtenances to the same belonging, and the rever-  
 sions, remainders, rents, issues and profits thereof, and all the  
 estate, right, title, interest, claim and demand of the said —  
 of, in, or to the same.

To have and to hold the said land and premises, with the  
 appurtenances, unto the said —, his heirs and assigns, to his  
 and their sole use, benefit and behoof forever.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[For "Certificate of Execution by Married Woman," see forms  
 above, and for "Oath of Execution," see p. 747.]

## DEED BY EXECUTORS OR TRUSTEES.

[Use form of "Quit Claim Deed" above, with the addition of the following covenant:

"And the said grantors do hereby for themselves, their executors and administrators, covenant with the said grantees, their heirs, executors, administrators and assigns, that they are lawfully the executors of the last will and testament of — [or, that they are the duly appointed trustees of —] and that they have not made or suffered any incumbrances on the lands hereby granted since they were appointed such executors [or, trustees,] and that they have in all respects acted in making this conveyance in pursuance of the authority granted to them as such executors [or, trustees]."

## MORTGAGE OF LAND.

THIS INDENTURE made the — day of — 19—, between — of —, of the one part, and — of —, of the other part.

WITNESSETH that the said —, in consideration of the sum of — dollars of lawful money of Canada, to the said — paid by the said — at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, doth grant, bargain, sell, alien, enfeof, release and confirm, unto the said —, his heirs and assigns, all [here describe property] and the buildings, hereditaments, easements and appurtenances to the same belonging, and the reversions, remainders, rents and profits thereof, and all the estate, right, title, interest, claim and demand of the said — of, in, or to the same.

To have and to hold the said above granted and described land and premises, with the appurtenances, unto and to the use of the said —, his heirs and assigns, forever.

Provided always, that if the said —, his heirs, executors or administrators, do pay unto the said —, his heirs, executors, administrators or assigns, the said full sum of — dollars in — [years] from the date hereof, and interest for the same after the rate of — per cent per annum, payable [quarterly, or as the case may be] on the — days of — and — in each year, then these presents shall be void.

And the said — for himself, his heirs, executors and administrators, hereby covenants with the said —, his heirs, executors, administrators and assigns, that he, the said —, his heirs, executors and administrators, shall and will pay unto the said —, his heirs, executors, administrators or assigns, the said full sum of — dollars and interest for the same at the days and times, after the rate and in the manner mentioned in the foregoing proviso. And that after breach of the foregoing proviso it shall be lawful for the said —, his heirs, executors, administrators and assigns, peaceably and quietly, to enter into, hold and enjoy the said granted land and premises, without hindrance or disturbance of, from or by any person or persons lawfully claiming the same or any part thereof. And also that the said — has a good, sure, perfect and indefeasible estate of inheritance in fee simple in the said land and premises, and that he has good right, full power and lawful authority to grant and convey the same in manner and form aforesaid, according to the true intent and meaning hereof.

And also that the said — and his heirs, the land and premises unto the said —, his heirs and assigns, against the lawful claims and demands of all persons, shall and will by these presents warrant and forever defend. And that until payment shall be made of the principal sum and interest hereby secured to be paid the said —, his heirs, executors and administrators, will keep without intermission insured against casualties by fire on the buildings on the said granted lands and premises the sum of — dollars, in some good fire insurance company in — to be selected by and in the name and for the benefit of the said — [mortgagee], his heirs, executors, administrators and assigns; and will deposit with the said — [mortgagee] all policies and receipts for renewal premiums of such insurance. And in default thereof that the said — [mortgagee], his heirs, executors, administrators and assigns, shall and may as required, effect, renew and continue such insurance, and charge all payments made for or in respect thereof, with interest after the rate aforesaid, upon the said mortgaged lands and premises.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[For "Oath of Execution" and "Certificate of Execution by Married Woman," see pp. 747 to 749.]

ASSIGNMENT OF MORTGAGE  
OF LAND.

THIS INDENTURE (*e*) made the — day of — 19—, between — of —, —, hereinafter called the assignor, of the first part, and — of —, —, hereinafter called the assignee, of the second part, [and — of —, of the third part (*f*)].

WHEREAS by a mortgage dated the — day of — 19—, one — did grant and mortgage the land therein described to —, his heirs and assigns, for securing the payment of — dollars, and there is now owing upon the said mortgage the sum of — dollars with interest thereon at the rate of — per cent from the — day of — 19—.

NOW THIS INDENTURE WITNESSETH that in consideration of — dollars of lawful money of Canada now paid by the assignee to the assignor, the receipt whereof is hereby acknowledged, the assignor doth hereby assign and set over unto the assignee, his executors, administrators and assigns, all that the said before in part recited mortgage and also the said sum of — dollars and interest thereon now owing as aforesaid, together with all moneys that may hereafter become due or owing in respect of the said mortgage and the full benefit of all powers and of all covenants and provisos contained in the said mortgage, and also full power and authority to use the name or names of the assignor, his heirs, executors, administrators or assigns, for enforcing the performance of the covenants and other matters and things contained in the said mortgage, and the assignor doth hereby grant and convey unto the assignee, his heirs and assigns, all that certain parcel of land, etc.

To have and to hold the said mortgage and all moneys arising in respect thereof and to accrue thereon, and also the said land thereby granted and mortgaged to the use of the assignee, his heirs, executors, administrators and assigns, absolutely for ever; but subject to the terms contained in such mortgage.

AND the assignor, for himself, his heirs, executors, administrators and assigns, doth hereby covenant with the assignee,

(*e*) This is the form generally used in Nova Scotia, but see the form on p. 523.

(*f*) See note (*v*) on p. 523.

his heirs, executors, administrators and assigns, that the said sum of — dollars and interest thereon as aforesaid, is now owing and unpaid, and that he hath not done or permitted any act, matter or thing whereby the said mortgage has been released or discharged either partly or in entirety; and that he will upon request do, perform and execute every act necessary to enforce the full performance of the covenants and other matters contained therein.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[For "Oath of Execution," see p. 747.]

## RELEASE OF MORTGAGE

### OF LAND.

TO ALL (g) to whom these presents shall come, I, —, of —, —, send greeting:

WHEREAS in and by a certain indenture of mortgage dated the — day of — 19—, and registered in the Registry of Deeds, at —, in liber — folio —, and made between — of —, —, of the one part, and — of —, —, of the other part, the said — did, subject to a proviso for the redemption thereof in the said indenture contained, convey and confirm to —, his heirs and assigns, certain lands and premises situate at —, and in the said indenture more fully described, to secure the payment of the sum of — dollars of lawful money of Canada, with interest in manner and form and at the times therein set forth.

AND WHEREAS the said — has fully paid off and satisfied the said mortgage and the principal and interest due thereon, and has requested a release of the same.

NOW KNOW YE, that I, —, in consideration of the premises and of the sum of — dollars to me in hand paid by the said — at or before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged, do hereby grant,

(g) It will be observed that this form is different from the Partial Release on p. 754. Either style of form may be used,—the difference being immaterial,—provided that it is properly adapted to a partial or a full release. It is customary, however, in this province to use the above form for the full release, and the form following for a partial release.

release, remise, discharge and for ever quit claim to as well the said mortgage, and the bond given therewith, and the sum thereby secured as all interest due thereon, together with the said premises, and all and singular the appurtenances thereof and all the estate, right, title, interest, claim, property and demand whatsoever, both at law and in equity, of him the said — under and by virtue of the said mortgage.

To have and to hold the said land and premises with all and singular the appurtenances to the said —, his heirs and assigns, to his behoof for ever, absolutely acquitted, discharged and released of and from the said in part recited indenture of mortgage and the sum thereby secured.

IN WITNESS whereof the said — has executed these presents this — day of — 19—.

SIGNED, SEALED, etc.

[For "Oath of Execution," see p. 747.]

#### PARTIAL RELEASE OF MORTGAGE

##### OF LAND.

THIS INDENTURE (g) made this — day of — 19—, between — of —, —, of the one part, and — of —, —, of the other part.

WHEREAS by indenture of mortgage made between — and — bearing date on or about the — day of — 19—, and registered in the Registry of Deeds office at —, in liber —, folio —, the said —, in consideration of the sum of — dollars to him paid by the said —, the receipt whereof was thereby acknowledged, did grant unto the said —, his heirs and assigns, certain lands and premises including the lands and premises hereinafter particularly described, to hold the same to the said —, his heirs and assigns, for ever, subject nevertheless to the proviso for the redemption thereof therein contained, whereby it was provided that the same should cease and become void on payment by the said —, his heirs, executors, administrators or assigns, of the said sum of — dollars with interest thereon, and premiums of insurance, as by reference to the said indenture will more fully appear.

NOW THIS INDENTURE WITNESSETH that the said —, in consideration of the said sum of — dollars as aforesaid, to him paid by the said — at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, doth remise, release and for ever quit claim unto the said —, his heirs and assigns, for ever, all [*here describe property released*], with all and singular the appurtenances thereof, and all the estate, right, title, interest, claim, property and demand whatsoever, both at law and in equity, of him, the said —, as such mortgagee as aforesaid, to have and to hold the said lot of land and premises last above described, with all and every the appurtenances thereof unto the said —, his heirs and assigns to his and their own, proper use and behoof for ever, absolutely acquitted, released and discharged of and from the said above, in part, recited mortgage, and the sum thereby secured.

IN WITNESS whereof the said — has hereunto his hand and seal subscribed and set the day and year first above written.

SIGNED, SEALED, etc.

[*For "Oath of Execution," see p. 747.*]

#### ASSIGNMENT OF JUDGMENT.

THIS INDENTURE made the — day of — 19—, between — of the — of —, —, hereinafter called the assignor, of the first part, and — of the — of —, —, hereinafter called the assignee, of the second part.

WHEREAS the assignor, on or about the — day of — 19—, recovered a judgment in the — court of —, against —, for the sum of — dollars, and — dollars costs, making together the sum of — dollars.

AND WHEREAS the assignor has agreed to assign the said judgment and all benefit to arise therefrom, either at law or in equity, unto the assignee in manner hereinafter expressed.

NOW THIS INDENTURE WITNESSETH, that in pursuance of the said agreement and in consideration of the sum of — dollars of lawful money of Canada now paid to the assignor by the assignee (the receipt whereof is hereby acknowledged), the assignor doth hereby grant, bargain, sell, assign, transfer and set over unto the



assignee, his executors, administrators and assigns all that the said hereinbefore mentioned judgment, and every sum of money now due and hereafter to grow due by virtue thereof, for principal, interest and costs, and all benefit to be derived therefrom, either at law or in equity, or otherwise howsoever:

To have, hold, receive, take and enjoy the same, and all benefit and advantage thereof, unto the assignee his executors, administrators and assigns, to and for his and their own proper use, and as and for his and their own proper moneys and effects absolutely.

And the assignor hereby constitutes and appoints the assignee, his executors and administrators, to be his true and lawful attorneys in the name of the assignor or otherwise, but at the proper costs and charges of the assignee, his executors and administrators, to ask, demand, and receive of and from the said —, his executors or administrators, the said judgment debt and premises hereby assigned, and on non-payment thereof, or any part thereof, to obtain any executions, or bring, commence and prosecute any actions, or suits, as well at law as in equity, for the recovery thereof, and to use all such other lawful remedies, ways and means as the assignor could or might have used or taken for the recovery thereof, and on receipt or recovery thereof to sign and give good and effectual receipts therefor, with full power from time to time to appoint a substitute or substitutes for all or any of the purposes aforesaid.

And the assignee hereby covenants to indemnify and save harmless the assignor from all loss, costs, charges, damages and expenses by reason or on account of any such proceedings as aforesaid.

IN WITNESS, etc.

SIGNED, SEALED, etc.

[For "Oath of Execution," see p. 747.]

#### MINING TRANSFER.

UNDER "THE MINES ACT."

(R. S. N. S., c. 18, Sch. Form F.)

KNOW ALL MEN by these presents that I, —, of — in the county of —, —, in consideration of — dollars to me in

hand well and truly paid by — of —, have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over to — of —, his executors, administrators and assigns, all the mining rights owned by me under [*describe the lease or license assigned, so as to unmistakably identify it, e.g. a lease (or, license) to mine coal, or as the case may be*] dated the — day of — 19—, recorded in the office of the Commissioner of Works and Mines at Halifax in page — (h).

To have and to hold the same to the said —, his executors, administrators and assigns, forever.

IN WITNESS whereof I have hereunto set my hand and seal this — day of — 19—.

SIGNED, SEALED, etc.

### CERTIFICATE OF EXECUTION

#### OF MINING TRANSFER.

PERSONALLY appeared before me — [*name in full*] of —, in the county of —, subscribing witness to the foregoing transfer, who, being duly sworn, says that — [*the transferor*] duly executed the above transfer in his presence.

SWORN, etc.

### CHATTEL PROPERTY.

Under "The Bills of Sale Act" (R.S.N.S., c. 142.) the expression "bill of sale" includes also a chattel mortgage, and every assignment, transfer, declaration of trust without transfer, and other assurance of personal chattels including powers of attorney, authorities or licenses to take possession of personal chattels as security for a debt, and every bill of sale of personal chattels (or a true copy thereof) and every renewal thereof, must be filed in the registry of deeds for the registration district in which the grantor, if a resident of Nova Scotia, resides at the time of the execution of the instrument, or, if he is not a resident

(h) The number and date alone will be sufficient, but in this case care should be taken to see that the particulars of description are absolutely correct.

of Nova Scotia, then in the registry of deeds for the registration district in which the chattels are at the time of the execution of the instrument (ib. s. 3.).

It will be noticed that the commencement of the forms on the next page are different. There is no reason for this, and either style of commencement may be used for either form, but the ones given are those generally used respectively. A chattel mortgage may (in addition to the ordinary form on p. 759) be given to secure the grantee repayment of advances, or against indorsement of notes, or against any other liability incurred by the grantee to the grantor or to be incurred under an agreement by the grantee to the grantor. Such mortgage shall set forth fully, by recital or otherwise, the terms, nature and effect (i) of the agreement entered into between the parties in respect to the advances; or (ii) of such indorsements; or (iii) of such other liability incurred by the grantee for the grantor; or (iv) of such agreement in respect to the liability to be incurred by the grantee for the grantor; and in all cases the amount of the liability created or by such agreement intended to be created and to be covered by such bill of sale. The bill of sale must be accompanied by an affidavit in the form on p. 762, using such of the alternatives as the case may require (ib. s. 4.).

No affidavit of execution of a bill of sale or chattel mortgage is required unless it is intended to file a "copy" of the instrument. In such case the copy shall include a copy of every schedule and defeasance, and shall be accompanied by an affidavit of the execution of the original instrument (ib. s. 3, s-s. 4.). This affidavit may be on the form on page 218, substituting for the words "the within bill of sale" the words "the original bill of sale, a true copy of which is hereto annexed."

The affidavits required by "The Bills of Sale Act" may be made before the registrar of deeds, a judge of any court, a commissioner for taking affidavits, a justice of the peace or any notary public, whether within the province or abroad (ib. s. 12.). When a special Nova Scotia form is not given, the general forms throughout the book may be adapted to suit the case.

## BILL OF SALE.

ABSOLUTE SALE OF CHATTELS (*i*).

KNOW ALL MEN by these presents that — of —, in the county of —, —, hereinafter called the grantor, in consideration of —, has granted, bargained and sold, and by these presents doth grant, bargain and sell unto —, hereinafter called the grantee, the following personal property, viz:—.

To have and to hold all and singular the said personal property unto the grantee, his executors, administrators and assigns, to his and their sole use forever.

And he, the grantor, for himself, his heirs, executors and administrators, doth covenant to and with the grantee, his heirs, executors, administrators and assigns, that he is lawfully possessed of the said hereinbefore enumerated articles of personal property, as of his own property, that they are free from all encumbrances, and that he will, and his heirs, executors and administrators shall, warrant and defend the same to the grantee, his heirs, executors, administrators and assigns, against the lawful claims and demands of all persons.

IN TESTIMONY whereof he, the said —, has hereunto set his hand and seal this — day of — 19—.

SIGNED, SEALED, etc.

[As to "*Affidavit of Execution*," see p. 758.]

[For "*Affidavit of Bona Fides*," see p. 762.]

## CHATTEL MORTGAGE.

(*General form (i).*)

THIS INDENTURE (*k*) made the — day of — 19—, between A.B. of —, —, of the one part, and C.D. of —, —, of the other part.

(*i*) The bill of sale takes effect and has priority as against bona fide purchasers and creditors only from the time of the filing thereof accompanied by the proper affidavit of bona fides (R.S.N.S., c. 142, s. 5, s-s. 3).

(*j*) As to other forms of chattel mortgage see pp. 242 to 267.

(*k*) The mortgage takes effect and has priority as against bona fide purchasers and creditors only from the time of the filing thereof accompanied by the proper affidavit of bona fides (R.S.N.S., c. 142, s. 5, s-s. 3).

WITNESSETH that the said A.B., in consideration of the sum of — dollars of lawful money of Canada to him paid by the said C.D. at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, doth hereby grant, bargain, sell, assign, transfer and set over unto the said C.D., his executors, administrators and assigns, [*here describe articles*].

To have and to hold the same unto and to the use of the said C.D., his executors, administrators and assigns, on breach of the covenants, provisoes and agreements hereinafter mentioned and expressed or any or either of them, in trust to sell the same either at public auction or by private contract, and out of the proceeds arising from such sale to pay all the expenses connected with these presents and the said sale and then to retain to and reimburse the said C.D. the said sum of — dollars with interest thereon at the rate of — per cent per annum or any balance that may then be due to him the said C.D., rendering the surplus if any there be to the said A.B., his executors, administrators or assigns.

Provided always and these presents are upon the express condition that if the said A.B., his executors, administrators or assigns, shall pay or cause to be paid to the said C.D., his executor's administrators or assigns, the said sum of — dollars with interest thereon at the rate of — per cent per annum in — months from the date hereof then these presents shall be void, otherwise to be and remain in full force, virtue and effect.

And it is agreed that until default of payment or other default herein it shall be lawful for the said C.D. to retain the possession and use of the said —.

And provided always and it is hereby agreed by and between the parties hereto that if any proceedings shall be taken at law or in equity to remove any of the property hereby conveyed without the consent of the said C.D., or to assign or attempt to assign the same, or if any legal proceedings shall be taken or any judgment entered against the said A.B. by any person or persons, or execution issued against him or attempted to be levied on the said property, or in case of any other default herein, then in either of the said cases it shall be lawful for the said C.D., his executors, administrators or assigns, to take immediate possession of and sell the said property, as hereinbefore provided, before

the expiration of the said period of —, and in so taking possession, either by himself or any person or persons on his behalf, to enter into or upon any lands, houses and premises whatsoever and wheresoever where the said property or any part thereof may be, and to break and force open any doors, locks, bolts, bars, fastenings, gates, houses, buildings, inclosures or places whatsoever for the purpose of taking possession of the said property.

And the said A.B., for himself, his heirs, executors and administrators, covenants with the said C.D., his heirs, executors, administrators and assigns, that he, the said A.B. is lawfully possessed of the said hereinbefore enumerated articles of personal property, as of his own property; that they are free from all encumbrances, and that he will, and his heirs, executors and administrators shall, warrant and defend them to the said C.D., his heirs, executors, administrators and assigns, against the lawful claims and demands of all persons.

And that he, the said A.B., his executors or administrators, will pay or cause to be paid to the said C.D., his executors, administrators or assigns, the said sum of — dollars and interest at the times and in the manner hereinbefore specified and provided.

And also will insure and keep insured against fire in such good and sufficient fire insurance office or offices as shall be approved of by the said C.D., his executors, administrators or assigns, on the property hereby mortgaged and conveyed the sum of — dollars in the name and for the benefit of the said C.D., his executors, administrators and assigns, and will deposit with the said C.D. all policies and receipts for renewal premiums of such insurance, and in default thereof that the said C.D., his executors, administrators and assigns, shall and may, as required, effect, renew and continue such insurance and charge all payments made for or in respect thereof with interest at the rate aforesaid upon the mortgaged property.

*[Insert here any special covenants from pp. 242 to 251 which may be required.]*

And that he, the said A.B., shall and will obey, abide by, and perform all and every the terms and stipulations hereinbefore mentioned according to the true intent and meaning

of these presents and every the covenants and agreements herein contained.

IN WITNESS whereof the parties to these presents have hereunto their hands and seals subscribed and set the day and year first above written.

SIGNED, SEALED, etc.

[As to "*Affidavit of Execution*," see p. 758.]

### AFFIDAVIT OF BONA FIDES

OF BILL OF SALE AND CHATTEL MORTGAGE.

(General form.)

(R.S.N.S., c. 148, Sch. B.)

PROVINCE of

Nova Scotia }  
County of ——— }

I, A.B., of ——— in the county of ———,  
[*occupation*], make oath and say as follows:

1. I am the grantor mentioned in the bill of sale [a copy of which is] hereto annexed [*or*, I am the agent, *or*, attorney, of the grantor mentioned in the bill of sale [a copy of which is] hereto annexed, duly authorized in that behalf in writing, and have a personal knowledge of the matters hereinafter deposed to].

2. The amount set forth therein as being the consideration thereof was at the time of making such bill of sale justly and honestly due [*or*, accruing due, *as the case may be*] from the grantor to the grantee.

3. The bill of sale was executed in good faith and for the purpose of securing to the grantee the payment of such amount [*or*, payment to the grantee of such amount].

4. Such bill of sale was not made for the mere purpose of protecting the personal chattels therein mentioned against the creditors of the grantor, or of preventing such creditors from recovering any claims which they have against such grantor.

SWORN to at ——— in the  
county of ——— this ——— day of }  
—— A.D. 19—— }  
Before me, ——.

[Signed] A.B.

## AFFIDAVIT OF BONA FIDES.

MORTGAGE TO SECURE ADVANCES, INDORSEMENTS AND  
LIABILITY.

(R.S.N.S., c. 142, Sch. A.)

PROVINCE of )  
 Nova Scotia, ) I, A.B., of —, in the county of —,  
 County of —. [occupation], make oath and say as follows:

1. I am the grantor mentioned in the bill of sale [a copy of which is] hereto annexed, [or, I am the agent or attorney of the grantor mentioned in the bill of sale [a copy of which is] hereto annexed, duly authorized in that behalf in writing, and have a personal knowledge of the matters hereinafter deposed to].

2. Such bill of sale truly sets forth;

The terms, nature and effect of the agreement entered into between the parties in respect to the advances therein mentioned [or,

The terms, nature and effect of the indorsements made or given by the grantee for the grantor, or,

The terms, nature and effect of the liability incurred by the grantee for the grantor, or,

The terms, nature and effect of the agreement in respect to the liability to be incurred by the grantee for the grantor],

And truly states the amount of the liability created [or, by such agreement intended to be created] and to be covered by the bill of sale.

3. Such bill of sale was executed in good faith, and for the purpose of securing the grantee repayment of his advances, [or, against loss or damage by reason of his indorsements, or, against loss or damage by reason of the liability incurred by the grantee for the grantor, or, against loss or damage by reason of such agreement in respect to the liability to be incurred,] and not for the mere purpose of protecting the personal chattels therein mentioned against the creditors of the grantor, or of preventing such creditors from recovering any claims which they have against such grantor.

SWORN, etc.

[Signed] A.B.



## RENEWAL STATEMENT

FOR CHATTEL MORTGAGE (1).

(R.S.N.S., c. 142, Sch. C.)

STATEMENT exhibiting the interest of C.D., in the property mentioned in a bill of sale dated the — day of — 19—, made between A.B., of —, of the one part, and C.D., of —, of the other part, and filed in the registry of deeds for the registration district of — on the — day of — 19—, and of the amount due for principal and interest thereon, and of all payments made on account thereof.

The said C.D. is still the grantee of the said property and has not assigned the bill of sale [or, the said E.F. is the assignee of the said bill of sale by virtue of an assignment thereof from the said C.D., to him, dated the — day of — 19—, [or as the case may be].

No payments have been made on account of the said bill of sale [or, the following payments and no others have been made on account of the said bill of sale.

19—, January 1. Cash received \$—.]

The amount due for principal and interest on the said bill of sale is the sum of \$—, computed as follows [here give the computation].

Dated at — the — day of — 19—.

WITNESS.

[Signature of C.D. or E.F. as the case may be.]

## AFFIDAVIT ON RENEWAL

OF CHATTEL MORTGAGE (m).

(R.S.N.S., c. 142, Sch. C.)

COUNTY of —, } I, —, of — in the county of —, the  
To Wit: } grantee named in the bill of sale mentioned  
in the foregoing [or, annexed] statement [or, assignee of the grantee

(1) The renewal statement and affidavit must be filed within 30 days next preceding the expiration of 3 years from the filing of the bill of sale (mortgage) or copy, or from the filing of the last renewal statement and affidavit (R.S.N.S., c. 142, s. 7, s-s. 6).

(m) This affidavit may be made by the grantor or grantee or one of several grantors or grantees, or the assignee, or one of several assignees,

named in the bill of sale mentioned in the foregoing statement] make oath and say:

That the foregoing [*or, annexed*] statement is true.

That the bill of sale mentioned in the said statement has not been kept on foot for any fraudulent purpose.

SWORN, etc.

or any next of kin, executor or administrator of a deceased grantee or assignee, or the agent of a grantee, or of any next of kin, executor, administrator or assignee duly authorized (R.S.N.S., c. 142, s. 7, s-s. 3). If the affidavit is made by the agent or attorney required to make it, then the agent or attorney shall state that he has a personal knowledge of the matters deposed to (ib. s. 12, s-s. 2).

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## PRINCE EDWARD ISLAND.

### CONVEYANCE OF LAND.

(P.E.I., 1894, c. 11).

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Indentures, between — of —, —, hereinafter called the grantor, of the first part, [and] — of —, —, hereinafter called the grantee of the second part [and —, wife (a) of the grantor, of the third part].

[Here insert recitals, if any.]

WITNESSETH that in consideration of [the premises and of (b)] — dollars of lawful money of Canada now paid by the grantee to the grantor, (the receipt whereof is hereby by him acknowledged), he, the grantor, doth grant unto the grantee, his heirs and assigns, forever, all and singular the lands (c) following that is to say: [describe lands] to hold unto and to the use of the grantee his heirs and assigns (d).

The grantor covenants with the grantee that he has the right to convey the said lands to the grantee notwithstanding any act of the grantor. And that the grantee shall have quiet possession of the said lands, free from all encumbrances. And the grantor covenants with the grantee that he will execute such further assurances of the said lands as may be requisite. And the grantor covenants with the grantee that he has done no act to encumber the said lands. And the grantor releases to the grantee all his claims upon the said lands.

(a) See Appendix C, on Dower.

(b) The words in brackets are only required if there are recitals.

(c) A deed of conveyance or mortgage in accordance with this form and that on p. 769 will be construed to include all buildings, gardens, trees, fences, hedges, ways, waters, light, privileges, easements, profits, commodities, hereditaments and appurtenances belonging or appertaining to the lands, and if an estate in fee, then also all reversions, remainders, rents, estate, interest, claim and demand of the grantor.

(d) This clause (the habendum) is usually inserted in conveyances, although it does not appear in the Short Forms Act, and is not required unless "uses" are to be declared.

[And the said — [party of the third part] doth hereby release all her right of dower in and to the said lands to the grantee, his heirs and assigns (e).]

IN WITNESS, etc.

SIGNED, SEALED, etc.

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#### RECEIPT CLAUSE (f).

RECEIVED on the day of the date of this indenture from the within named grantee the sum of — dollars, being the full consideration money therein mentioned.

WITNESS:

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#### ACKNOWLEDGEMENT BY MARRIED WOMAN

OF RELEASE OF DOWER.

(P.E.I., 1871, c. 23, Sch. A.)

THIS DEED was acknowledged before me (g) by — [the wife], apart from her husband, to have been voluntarily executed by her, and that she was aware of the nature of the contents thereof.

Dated this — day of — 19—.

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#### CERTIFICATE OF ACKNOWLEDGEMENT

BY WITNESS (h) OF EXECUTION OF DEED, WHEN EXECUTED WITHIN THE PROVINCE.

(P.E.I. 1833, c. 10, s. 3.)

On the — day of — 19—, personally appeared before me — of — in — county, and being sworn, testified that he is a subscribing witness to the within written deed or writing,

(e) P.E.I., 1871, c. 23; 1884, c. 13.

(f) The receipt in the body of the deed is sufficient, but if this formal receipt appears in the deed it should either be filled in and signed, or struck out altogether. It is usual, however, in the Island to use this formal receipt.

(g) This acknowledgement must be taken before a J. P. or notary public.

(h) Either this form or the one following may be used: By 3 Wm. 4 (1833), c. 10, all deeds or writings relating to messuages, lands, tenements or hereditaments may be proved by the oath of one or more of the subscribing witnesses, or by the personal acknowledgement of the grantors.

and that he was present and did see the same duly executed by the grantor [*or*, grantors] therein named.

\_\_\_\_\_,  
A Commissioner, etc.

### CERTIFICATE OF ACKNOWLEDGEMENT

BY GRANTOR (*i*) OF EXECUTION OF DEED, WHEN EXECUTED  
WITHIN THE PROVINCE.  
(P.E.I., 1833, c. 10, s. 3.)

On the \_\_\_\_ day of \_\_\_\_ 19—, personally appeared before me \_\_\_\_ of \_\_\_\_ in \_\_\_\_ county, and acknowledged that he [*or*, they, *as the case may be*] did freely and voluntarily execute the within written deed or writing to and for the uses and purposes therein mentioned.

\_\_\_\_\_,  
A Commissioner, etc.

### CERTIFICATE OF ACKNOWLEDGEMENT

BY GRANTOR, OF EXECUTION OF DEED, WHEN EXECUTED OUTSIDE  
THE PROVINCE.  
(P.E.I., 1876, c. 12, s. 5.)

PROVINCE OF \_\_\_\_\_, } I, \_\_\_\_\_, a notary public (*j*) by lawful  
County of \_\_\_\_\_, } authority duly authorized, commissioned  
To Wit: } and sworn, residing and practicing at  
\_\_\_\_\_ in the province of \_\_\_\_\_, do hereby certify that on the  
\_\_\_\_\_ day of \_\_\_\_ 19—, personally appeared before me \_\_\_\_  
[and \_\_\_\_\_] of \_\_\_\_\_, known to me, and [severally] acknowledged  
that he [*or*, they and each of them] did freely and voluntarily  
execute the within [*or*, annexed] deed or writing to and for  
the uses and purposes therein mentioned.

I further certify that the signature[s] "\_\_\_\_" [and "\_\_\_\_"]  
set opposite the seal[s] and subscribed to the receipt is [*or*,  
are respectively] of the proper handwriting of the said \_\_\_\_  
[and \_\_\_\_\_].

(*i*) See note (*h*) on p. 767.

(*j*) This form may be used for any other of the persons named in  
Appendix B, as being authorized to take oaths outside Prince Edward  
Island.

I also certify that the signature "—," notary public, to the attestation clause and as witness to the receipt, as well as hereto, are respectively of my proper handwriting.

IN WITNESS whereof I have hereunto subscribed my hand and affixed my official seal of office this — day of — 19—, at — in the province of — aforesaid.

—, Notary Public. [Seal.]

### MORTGAGE OF LAND

(P.E.I., 1894, c. 11.)

THIS INDENTURE made the — day of — 19—, in pursuance of the Act respecting Short Forms of Indentures, between — of —, —, hereinafter called the mortgagor, of the first part; [and] — of —, —, hereinafter called the mortgagee, of the second part, [and —, wife of the mortgagor, of the third part].

[Here insert recitals, if any.]

WITNESSETH that in consideration of [the premises and of] — dollars of lawful money of Canada, now paid by the mortgagee to the mortgagor (the receipt whereof is hereby acknowledged), he, the mortgagor, doth grant and mortgage unto the mortgagee, his heirs and assigns, forever; all and singular the lands following, that is to say: [describe the lands], [and the said —, wife of the said mortgagor, doth hereby release all her rights of dower in and to the said lands to the mortgagee, his heirs and assigns].

Provided this mortgage shall be void on payment of — dollars of lawful money of Canada, with interest at — per cent per annum as follows: [Insert terms of payment of principal and interest].

The said mortgagor covenants with the said mortgagee that the mortgagor will pay the mortgage money and interest and observe the above proviso. That the mortgagor has a good title in fee simple to the said lands; and that he has the right to convey the said lands to the said mortgagee. And that on default the mortgagee shall have quiet possession of the said lands, free from all incumbrances. And that the said mortgagor

will execute such further assurances of the said lands as may be requisite. And that the said mortgagor has done no act to encumber the said lands. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than — dollars currency. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands, subject to the said proviso.

Provided that the said mortgagee on default of payment may enter on or lease or sell the said lands, but no power of sale to be exercised till after — weeks' notice. Provided that the mortgagee (*k*) may distrain for arrears of interest. Provided that in default of the payment of the interest hereby secured the principal hereby secured shall become payable. Provided that until default of payment the mortgagor shall have quiet possession of the said lands.

*[Insert such special clauses from the form on p. 497 as may be required.]*

IN WITNESS, etc.

SIGNED, SEALED, etc.

*[For Receipt Clause, Acknowledgements and Certificates, see pp. 767 to 768.]*

## ASSIGNMENT OF MORTGAGE

### OF LAND.

*[Same as Nova Scotia form on p. 752, but adding the words "that the said mortgage hereby assigned is a good and valid security, and" after the word "assigns" at the top of p. 753.]*

*[For Certificates of Acknowledgement, see pp. 767 and 768.]*

(*k*) In the statute the word "mortgagor" is used in the short form covenant. The word "mortgagee," however, appears on the corresponding long form. It will be safe to use either word, for when there is an obvious mistake in an Act of Parliament the courts will not be bound by the letter of the Act, but will take care that its plain meaning is carried out; See *Hardcastle on Construction of Statutes*, 2nd ed. at p. 468; and also *Maxwell on Interpretation of Statutes*, 2nd ed. at pp. 305, 306, and cases there cited.

# QUEBEC.

## NOTES ON THE LAW.

In this province no forms of conveyances exist which would be of service to solicitors of other provinces. Conveyancing is entirely in the hands of the notarial profession, which is a profession quite distinct from that of the Bar. This results from two facts; first, nearly every deed of conveyance contains a mortgage in favour of the vendor for the balance of the price, and a mortgage under the provincial law cannot be made otherwise than by notarial deed; secondly, a deed under private signature, though quite legal as a simple conveyance, is difficult of proof at times, whereas the notarial deed is in itself authentic.

The rule requiring mortgages to be in notarial form is subject to the exception that they may be created by statutory form on lands held in free and common socage, and on lands in the counties of Mississquoi, Shefford, Stanstead, Sherbrooke and Drummond, in other words, in the Eastern Townships. This form is as follows:

I, A. B., of —, hereby acknowledge myself to be indebted to R. J., of —, in the sum of —, payable [*here describe the terms of payment*], and for securing the payment of the same I hypothecate all that [piece or lot of land] lying and being in the [*here describe the property*], with all appurtenances thereon or thereunto belonging [*as the case may be*], unto the said R. J., his heirs and assigns.

In testimony whereof I have hereunto set my hand and seal at — in the — of —, on the — day of — in the year —.

Signed, sealed and delivered } A. B. [L.S.]  
in the presence of — }

This form is used in the Townships to a limited extent only, being subject to the same difficulties of proof as a simple conveyance would be. The notarial form is used whenever possible.

If a conveyance or mortgage, or both, is to be executed without the province, it is the custom to obtain the execution



by the foreign party of a power of attorney authorizing a resident to appear before the notary to execute the deed in question, of which a draft is attached to the power. The power should be executed before two witnesses, one of whom makes an affidavit before a notary public or other public officer of the province.

The notary usually drafts the deed, the solicitor approves it and reports on the title.

In view of the fact that the provincial law on this subject is widely different from that of the other provinces, it would be unwise for solicitors of their respective Bars to attempt conveying of property situate in the Province of Quebec.

The following points may also be of interest:

Consorts may be either in community of property or separate as to property. The former results, by law, in the absence of a contract. The latter must be stipulated by contract of marriage.

The community includes all immovables acquired by the consorts during marriage, other than those accruing from ascendants. The husband is the head of the community and has power to sell and mortgage, etc., its property without the consent of the wife. He cannot, however, without her consent, dispose of the immovables which belong to her, though he administers them.

When separate as to property, the wife retains the entire administration of her immovables. She cannot, however, alienate them without the special consent of her husband, or on his refusal, without being judicially authorized.

Dower may be either conventional or customary, according as a contract exists or not. If conventional, it is governed by the terms of the contract; but customary dower consists in the usufruct for the wife, and the ownership for the children of one half of the immovables which belong to the husband at the time of the marriage and of one half of those which accrue to him during marriage from his father or mother or other ascendants.

The wife may specially renounce her right to dower, and the property is thereby freed from all claims by her or the children.

# SASKATCHEWAN.

## CONSTITUTION AND LAWS.

The Province of Saskatchewan was constituted by c. 42 of the statutes of 1905 of Canada, its territory forming a part of what had previously been known as the North-West Territories. By section 16 of the Act all laws, and all orders and regulations made thereunder, existing in the territory which, by the said Act, became the Province of Saskatchewan, are continued.

By section 1 of c. 18 of the statutes of 1905 of Canada it is provided that upon the establishment of a province in any portion of the North-West Territories, and the enactment by the legislature of such province of an Act relating to the registration of land titles, the Governor in Council may, by order, repeal the provisions of the Land Titles Act and its amending Acts (*a*), in so far as they apply to such province. No such repealing order shall take effect until it has been published in four consecutive weekly issues of the "Canada Gazette."

The Land Titles Act having been in force in the North-West Territories previous to the constitution of the Province of Saskatchewan the forms made thereunder are accordingly still applicable in this province, and are the same as those for "Alberta" (*ante*, p. 685) the only change necessary being to substitute the word "Saskatchewan" for the word "Alberta" where it occurs. Reference is thus made in order to avoid reduplication of forms. No change can be made in the Act or forms until the province passes legislation. This it may do at its first session in 1906, but even then the forms may not be changed materially.

Some of the more important provisions relating to real property will be found under the heading "North-West Territories" *ante*, p. 744.

(*a*) Can. 1894, c. 28; 1897, c. 30; 1898, c. 32; 1899, c. 17; 1900, c. 21; 1902, c. 17; 1904, c. 19; 1905, c. 18.

# YUKON TERRITORY.

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## REAL PROPERTY.

The Land Titles Act (Can., 1894, c. 28, as amended) is in force in the Yukon Territory. All the forms under that Act are, therefore, applicable unless changed by a Yukon Ordinance. In the absence of other provision the forms given under "Alberta" (ante p. 686) may, therefore, be used in the Yukon. Many forms, however, are frequently amplified and added to by special covenants.

Form "W" of the Land Titles Act (see p. 687) is invariably used as the affidavit of attestation, not only for all documents to be registered in the Land Titles office, but also for all documents to be registered in the Mining Recorder's or Gold Commissioner's office. This affidavit should be sworn only before the persons mentioned in sections 100 and 101 of the Land Titles Act.

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## MORTGAGE OF MINING CLAIM.

I, A. B., of —, —, holder of Free Miner's Certificate for the Yukon Territory numbered —, issued at — on the — day of — 19—, being owner of [*state interest if less than whole, as, e.g., an undivided two-thirds of*] [*describe claim as in official grant, lease or record, to which refer by number, stating whether it is a quartz, hydraulic or placer claim, and the name of the mining division, district or territory*], in consideration of the sum of — dollars lent to me by C. D., the receipt of which sum I do hereby acknowledge, covenant with the said C. D.:

Firstly. That I will pay to him, the said C. D., the above sum of — dollars on the — day of — 19—.

Secondly. That I will pay interest on the said sum at the rate of — on the dollar in each year, by equal payments on the — day of — and the — day of — in every year.

Thirdly. That I will procure the full representation work or annual labour to be done on the said claim at least one month before the expiry of the present grant [*or, record*] and if I fail to do so the said C.D. may procure the same to be done, and he shall be paid therefor the sum of — dollars, which shall be added to and become a part of the principal sum secured by this mortgage.

Fourthly. (*a*) That I will keep my Free Miner's Certificate in full force during the term of this mortgage, and should I fail to do so the said C.D. is hereby authorized to obtain a renewal of the same, and shall be entitled in payment therefor to the sum of — dollars, which shall be added to and become a part of the principal sum secured by this mortgage.

Fifthly. That I have a good title to the claim [*or, interest*] above described, free from all encumbrances, and a right to mortgage the same, and that on default the said C. D. shall have quiet possession thereof free from all encumbrances.

Sixthly. That I will execute such further assurances as may be requisite.

It is further agreed that the said C. D. shall be entitled during the term of this mortgage to the whole [*or, one-half or, as the case may be*] of all the gold mined or cleaned up from the said claim, and shall be entitled to nominate in writing an agent to be present on the said claim at the said clean up, and receive the said clean up [*or, one half, as case may be*] and the said C. D. shall be entitled to the sum of — dollars per day as wages for the said agent, which shall be added to and become a part of the principal sum secured by this mortgage; and it is further agreed that the gold received by the said agent at the said clean up for the said C. D. shall be at once sold at the Bank of — in Dawson, and the proceeds applied in part or entire payment of principal, interest and charges in addition, in this mortgage mentioned.

The said C. D. on default of payment or the breach of any covenant or condition in this mortgage may lease or sell the said mining claim [*or, interest*] without notice, and is hereby

(*a*) The mortgagee is advised to insist upon the purchase of F.M.C. by the mortgagee sufficient to cover the term before the mortgage is executed, and thus do away with this covenant.

constituted attorney for the said A. B. to execute such documents and do such things as he may deem necessary or expedient in connection therewith. *[Add such other provisos regarding power of sale as may be deemed necessary.]*

In default of the payment of any instalment of the principal or interest hereby secured, the whole principal hereby secured remaining unpaid shall become payable, but the said C. D. may waive his right to call in the principal, and shall not be therefore debarred from asserting and exercising his right to call in the principal upon the happening of any future default; provided that, until default of payment, the said A. B. shall have quiet possession of the said lands, and his executors and assigns shall have and may exercise all or any of the rights, powers and privileges by this mortgage given the said C. D.

And for the better securing of the said C. D., the said repayment in manner aforesaid, of the principal sum and interest, I hereby mortgage (b) to the said C.D. all my estate and interest above described in the said mining claim.

IN WITNESS whereof I have hereunto signed my name this — day of — 19—.

SIGNED by the above named  
A. B. as mortgagor,  
in presence of

|  
| [Signature of mortgagor.]

#### TRANSFER OF MINING CLAIM.

I, A. B., of the — of —, —, holder of Free Miner's Certificate for the Yukon Territory, numbered —, issued at — on the — day of — 19—, being owner of *[state interest if less than whole as, e.g., an undivided one-third of]* *[describe claim as in official grant, lease or record, to which refer by number, stating whether it is quartz, hydraulic or placer, and the name of the mining division, district and territory]* in consideration of — dollars paid to me by C. D., holder of Free Miner's Certificate for the Yukon Territory, numbered —, issued at — on the — day of — 19—, receipt of which sum I do hereby

(b) Owing to the uncertainty existing as to whether the Land Titles Act applies to mining property, many practitioners prefer the common law form.

acknowledge, transfer to the said C. D. all my estate and interest in the said mining claim, and covenant that I have a good title to the claim [*or, interest*] above described, free from all incumbrances, and a right to transfer the same.

IN WITNESS whereof I have hereunto subscribed my name this — day of — 19—.

SIGNED by the said A.B. }  
in the presence of }

[*Signature.*]

### CHATTEL PROPERTY.

The "Bills of Sale Ordinance" of the North-West Territories (Con. Ord. N.W.T., 1898, c. 43.), which applies to the Alberta forms, is practically identical with the "Bills of Sale Ordinance" of the Yukon Territory (Con. Ord. Yukon, 1902, c. 39.) with the exception of the section relating to securities on crops (s. 15 of Con. Ord. N.W.T.), which is omitted in the Yukon Ordinance. Consequently, the forms given under "Alberta" (p. 686) may be used in the Yukon except where special forms are here given.

### CHATTEL MORTGAGE.

(*General form.*)

(Con. Ord. Yukon, 1902, c. 39, ss. 6, 7; Sch. Form A.)

[*The same as the Alberta form on p. 698, except that the words "section 16" in the last paragraph of the Alberta form should be changed to "section 15." Notes "(m)" and "(n)" to the said form apply also to the Yukon mortgage.*]

### STATEMENT ON RENEWAL

OF CHATTEL MORTGAGE.

(Con. Ord. Yukon, 1902, c. 39, s. 17.)

[*This form and the affidavit on renewal are the same as the Alberta forms on p. 701. See also the notes to these Alberta forms.*]

### DISCHARGE OF CHATTEL MORTGAGE.

(Con. Ord. Yukon, 1902, c. 39, s. 26; Sch. Form B.)

[*The same as the Alberta form on p. 702.*]

## APPENDIX A.

### ATTESTATION FORMS (a).

#### BY ONE PERSON.

In witness whereof I have hereunto set my hand [and seal] [this — day of — 19—, or, the day and year first above written].

Signed [sealed and delivered] in the presence of [Signature of witness (b).]	}	[Signature of party, also seal if required.]
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or,

As witness my hand [and seal].

Signed [sealed and delivered] in the presence of [Signature of witness (b).]	}	[Signature of party, also seal if required.]
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#### BY SEVERAL PERSONS.

In witness whereof the said parties [or, the parties hereto] have hereunto set their hands [and seals] [this — day of — 19—, or, the day and year first above written].

Signed [sealed and delivered] in the presence of [Signature of witness (b).] as to the signature of A.B., and in the presence of [Signature of witness (b).] as to the signature of C.D.	}	[Signature of parties, also seals if required.]
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or,

In witness whereof the parties hereto have hereunto set their hands and seals in the presence of the witness whose name is set opposite the signature of each party respectively.

Signatures of witnesses.		Signatures of parties.		Seals.
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(a) The words within brackets may be omitted if not required.

(b) One witness is usually sufficient. But see "Copyrights" and "Wills."

## BY A COMPANY.

In witness whereof the said company has hereunto affixed its corporate seal.

Sealed and delivered, and countersigned by —, [president, or other officer having authority] of the — company.

in the presence of	}	[Signature of proper officer of the company, opposite the company's seal.]
[Signature of witness to execution by officer.]		

## BY COMPANY AND PRIVATE PERSON.

In witness whereof the said parties have hereunto set their corporate seal and hand and seal respectively.

Sealed and delivered, and countersigned by —, [president] of the said company,

in the presence of	}	[Signature of proper officer of company.] [Company's seal.]
W.X.		

Signed, sealed and delivered	}	[Signature of private person.] [Seal.]
by — [private person]		
in the presence of		

## BY TWO COMPANIES.

In witness whereof the said parties have hereunto affixed their corporate seals.

Sealed and delivered, and countersigned respectively by — [president] of the — company, and by — [vice-president, or other officer having authority] of the — company,

in the presence of	}	[Signatures of the proper officers of the respective companies opposite the companies' seals.]
W.X.		
as to the signature of —		
[president].		
and in the presence of		
Y.Z.		
as to the signature of — [vice-president].		

## UNDER POWER OF ATTORNEY.

In witness, etc.

Signed, [sealed and delivered] by [the above named] E.F. as





*usually advisable to specify the words*], having been first made in the presence of —."

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## JURATS.

## FOR ONE DEPONENT.

Sworn [*or, affirmed*] before me at the — of —, in the county [*or, district*] of —, this — day of — A.D. 19—.

## FOR TWO OR MORE DEPONENTS.

The said — and — were severally sworn [*or, affirmed*] before me at the — of —, in the county [*or, district*] of —, this — day of — A.D. 19—.

## WHEN DEPONENT IS UNABLE TO READ.

*Add to above forms, after the date*, "having been first read over and explained to [him] who appeared perfectly to understand the same, and who made [his] mark in my presence."

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## APPENDIX B.

### EXECUTION OF INSTRUMENTS.

#### ALBERTA.

The Land Titles Act, 1894, continues to apply to this province until the enactment by the legislature of the province of an Act relating to the registration of land titles (*a*). Therefore, affidavits and declarations of instruments to be registered in the province may be made before the persons named on p. 785 until an Act of the legislature orders otherwise.

#### BRITISH COLUMBIA.

When instruments are authorized to be recorded or registered under The Land Registry Act, the acknowledgement or proof of such instruments may be made (*b*) before the following persons:

##### *In the province.*

(i) The registrar, district or deputy registrar; (ii) a stipendiary magistrate or J.P.; (iii) a judge or registrar of any court having a seal; (iv) a notary public practising within the province.

##### *Outside the province, but within the British Dominions.*

(i) A judge, clerk or registrar of any court having a seal; (ii) a notary public; (iii) a magistrate having a seal of office; (iv) a commissioner authorized to take affidavits for use within the province.

##### *Outside the British Dominions.*

(i) Any British ambassador, chargé d'affaires, minister, consul or consular agent in the country; (ii) a judge of a court

(*a*) Can. 1905, c. 3, s. 16; c. 18, s. 1.

(*b*) R.S.B.C., c. 111, s. 54.

of record having a seal; (iii) a notary public duly certified to be such by a British ambassador, chargé d'affaires, minister, consul, consular agent, governor or secretary of the state, province or territory, or a clerk of a court of record having a seal.

### MANITOBA.

Any affidavit made under the authority of The Registry Act (*c*), or The Bills of Sale and Chattel Mortgage Act (*d*) may be made before any of the persons authorized by The Manitoba Evidence Act (*e*) to take affidavits for use in Manitoba, or, if made

#### *In Manitoba*

it may be made before (i) any person so authorized to take affidavits in the province; (ii) The registrar or deputy registrar of the district in which the lands lie; (iii) Any justice of the peace for the province.

#### *In other provinces and in Great Britain or Ireland.*

(i) A judge of any superior court or a judge of any county court within his district; (ii) The mayor or chief magistrate of any city, borough or town corporate, certified under the common seal; (iii) a notary public under his official seal; (iv) A commissioner for taking affidavits outside the province to be used therein.

#### *In the North-West Territories and District of Keewatin.*

(i) A judge, police magistrate, or justice of the peace; (ii) a commissioner authorized to take affidavits for use in the said Territories or district, or for use in Manitoba; (iii) a notary public, under his official seal.

#### *In the British possessions in India.*

Any magistrate or collector, certified to have been such under the hand of the Governor of such possession.

(*c*) R.S.M., c. 150, s. 47.

(*d*) R.S.M., c. 11, s. 11.

(*e*) R.S.M., c. 57.

*In any other British colony or possession.*

- (i) A judge of a court of record or of supreme jurisdiction;
- (ii) the mayor of any city, borough or town corporate, under the common seal; (iii) a notary public, under his official seal.

*In a foreign country.*

- (i) The mayor of any city, borough or town corporate under the common seal; (ii) any consul or vice-consul of His Majesty resident therein; (iii) a judge of a court of record; (iv) a notary public under his official seal.

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NEW BRUNSWICK.

I. In the case of instruments to be registered (*f*) in the province, if the execution of the instrument be acknowledged within the province, such acknowledgement may be taken before: (i) A judge of the supreme or county court; (ii) a member or ex-member of the executive council or of the late legislative council; (iii) a registrar or deputy registrar of deeds; (iv) a notary public under his official seal; (v) a J.P. of the county in which the conveyance is to be registered.

II. If such acknowledgement be taken or made outside the province, it may be made before: (i) A notary public under his seal; (ii) a mayor or chief magistrate of any city, borough, municipality or town corporate, under the common seal or the seal of the mayor or chief magistrate; (iii) a judge of the High Court of Great Britain or Ireland; (iv) a judge or lord of session in Scotland; (v) a judge of a court of supreme jurisdiction in any British colony or dependency; (vi) a British minister, ambassador, consul, vice-consul, acting consul, pro-consul or consular agent of His Majesty, under his seal of office; (vii) the governor of any state.

III. If the execution of such instrument be proved within the province, such proof may be taken by and before: (i) A judge of the supreme court or a county court; (ii) a member of the executive council; (iii) a registrar or deputy registrar of deeds; (iv) a notary public, under his seal.

(*f*) R.S.N.B., c. 151, s. 52.

IV. If proof of the execution of such instrument be taken out of the province, it must be taken before: (i) A commissioner authorized to take affidavits for use in the province; (ii) any other of the persons mentioned in paragraph II above.

#### NORTH-WEST TERRITORIES (g).

Affidavits and declarations of instruments to be registered may be made (h) before:

##### *In the Territories.*

(1) The inspector of land titles offices; (2) The registrar or deputy registrar of the registration district in which the land is situated; (3) a judge; (4) a stipendiary magistrate; (5) a notary public; (6) a commissioner for taking affidavits; (7) a justice of the peace in or for the Territories.

##### *In any province of Canada.*

(1) A judge of a court of record; (2) a commissioner authorized to take affidavits in such province for use in any court of record in the Territories; (3) a notary public, under his official seal.

##### *In Great Britain and Ireland.*

(1) A judge of the supreme court of judicature in England or Ireland or of the court of sessions or judiciary court in Scotland, or a judge of any of the county courts within its county; (2) the mayor of any city or incorporated town, under the common seal; (3) a commissioner authorized to take affidavits for use in any court of record in the Territories; (4) a notary public, under his official seal.

##### *In a British colony or possession out of Canada.*

(1) A judge of a court of record; (2) the mayor of any city or incorporated town, under the common seal; (3) a notary public, under his official seal.

(g) This includes the North-West Territories, the district of Keewatin, and all other territories of Canada (Can. 1894, c. 28, s. 2 (q)). As to Alberta, see p. 782, and as to Saskatchewan, see p. 788.

(h) Can. 1894, c. 28, ss. 100, 101.

*In a foreign country.*

(1) The mayor of any city or incorporated town, under the common seal; (2) the British consul, vice-consul or consular agent; (3) a judge of a court of record; (4) a notary public, under his official seal.

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NOVA SCOTIA.

When instruments are to be registered in Nova Scotia, acknowledgements and oaths therefor, if made within the province, may be made (i) before: (i) Any registrar, (ii) a judge of the supreme court or a county court, (iii) a notary public, (iv) a barrister of the supreme court, (v) a J. P., (vi) a commissioner of the supreme court.

If made without the province, they may be made (j) before: (i) A commissioner appointed to take affidavits without the province for use in the courts of the province. (ii) A judge of any court of record. (iii) The mayor or recorder of any city or incorporated town. (iv) A notary public. (v) A minister, consul, vice-consul or consular agent of His Majesty.

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ONTARIO.

An affidavit of the execution of an instrument to be registered in Ontario must be made (k) before some one of the following persons:

*I. In Ontario.*

(1) The registrar (l) or deputy-registrar of the county in which the lands lie. (2) A judge. (3) A commissioner authorized to take affidavits. (4) A justice of the peace for the county in which the affidavit is sworn. (5) A notary public having authority in Ontario.

*II. In Quebec.*

(1) A judge or prothonotary of the superior court, or clerk of the circuit court. (2) A commissioner authorized by the

(i) R.S.N.S., c. 137, s. 26.

(j) ib., s. 27.

(k) R.S.O., c. 136, s. 46.

(l) A registrar has no power to take an affidavit proving a claim of mechanics' lien.

laws of Ontario to take affidavits for use in Ontario. (3) A notary public, certified under his official seal.

### *III. In Great Britain or Ireland.*

(1) A judge. (2) The mayor or chief magistrate of any city, borough, or town corporate, and certified under the common seal of the city, borough or town. (3) A commissioner authorized to administer oaths in the supreme court of judicature in England or Ireland. (4) A commissioner authorized to take affidavits for use in Ontario. (5) A notary public, certified under his official seal.

### *IV. In a British colony or possession.*

(1) A judge of any court of record or supreme jurisdiction. (2) The mayor of any city, borough or town corporate, and certified under the common seal of the city, borough or town. (3) A notary public, certified under his official seal.

In the British possessions in India it may be made (in addition to the persons above mentioned) before (1) any magistrate or collector, who is certified to be such under the hand of the governor of such possession; (2) a commissioner authorized by the laws of Ontario to take affidavits for use in Ontario.

### *V. In a foreign country.*

(1) The mayor of any city, borough or town corporate and certified under the common seal of the city, borough or town. (2) A consul, vice-consul or consular agent of His Majesty resident in the country. (3) A judge of a court of record. (4) A notary public, certified under his official seal. (5) A commissioner authorized by the laws of Ontario to take affidavits for use in Ontario.

If any of the officers mentioned in paragraphs II., III. and IV., above, has not an official seal, it shall be sufficient for him so to certify.

### PRINCE EDWARD ISLAND.

An oath for an acknowledgement of the execution of an instrument to be registered in Prince Edward Island may be made before one of the following persons:



*In Prince Edward Island (m).*

(1) The registrar of deeds of the county in which the lands lie; (2) a commissioner empowered to administer oaths.

*Outside Prince Edward Island (n).*

(1) The mayor of any city, borough, or town corporate, certified under the common seal, (2) a consul, vice-consul, or consular agent of His Majesty, (3) a judge of a court of record, (4) a notary public, under his official seal, (5) a commissioner authorized by the laws of the Island to take acknowledgements or proof of execution for registry in the Island.

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QUEBEC.

## INSTRUMENTS TO BE REGISTERED (o).

Instruments required to be registered in this province may be authenticated as below in the localities named:

*In any part of Canada.*

By an affidavit of one of the witnesses sworn before a judge of the court of King's Bench or a superior court; a commissioner thereof for taking affidavits; a J. P.; a notary; the registrar, or his deputy.

*In Upper Canada.*

By an affidavit of one of the witnesses sworn before a judge of the court of King's Bench or Common Pleas; a J. P.; a notary; a commissioner for Lower Canada.

*In any other British possession.*

By an affidavit sworn before a mayor, a judge of the supreme court of such possession, or a commissioner authorized to take affidavits to be used in Lower Canada.

*In a foreign country.*

Before a minister, chargé d'affaires, or British consul.

(m) 1833, c. 10, s. 3.

(n) 1885, c. 1, s. 1.

(o) Civil Code, articles 2141-2144.

## EXEMPLIFICATIONS OF JUDGMENT.

When judgments are rendered out of Lower Canada they must be authenticated by the signature of the officer having the custody of the record of such judgment.

## POWERS OF ATTORNEY.

Powers of attorney executed out of Lower Canada should be made before two witnesses, one of whom should make an affidavit before the mayor, a clerk of a court of record under seal, or a notary public. In the latter case his authentication should be covered by a certificate of the clerk that he is a practising notary.

## SASKATCHEWAN.

The Land Titles Act, 1894, continues to apply to this province until the enactment by the legislature of the province of an Act relating to the registration of land titles (*p*). Therefore, affidavits and declarations of instruments to be registered in the province may be made before the persons named on p. 785 until an Act of the legislature orders otherwise.

## YUKON TERRITORY.

For persons before whom may be made affidavits and declarations of execution of instruments to be registered, see "North-West Territories" p. 785. The Land Titles Act (*q*) applies to all territories of Canada.

(*p*) Can. 1905, c. 42, s. 16; 1905, c. 42, s. 1.

(*q*) Can. 1894, c. 28, ss. 2 (*q*), 100, 101.

## APPENDIX C.

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### DOWER.

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#### GENERAL LAW.

Dower has been defined to be the right of a widow during the residue of her life to one-third part of the freehold lands late of her deceased husband.

Dower at common law has been defined to be an estate for life to which a wife is entitled, after the decease of her husband, in the third part of every estate of inheritance of which her husband was solely seised, either in deed or in law, at any time during the coverture, to have and to hold to her in severalty by metes and bounds, for the term of her natural life, whether she has had issue by her husband or not, and provided she be past the age of nine years at the time of her husband's death (Co. Litt. 19th ed. vol. 1, c. 5, s. 36.) The above definition does not cover equitable dower, which is allowed by statute as hereinafter described.

For the purposes of this work it is unnecessary to go into the origin of the right to dower, or even to outline the various ways in which this right has been regarded from the earliest times to the present day.

Dower was intended for the sustenance of the widow and the nurture and education of the children. During the lifetime of the husband the wife's right to dower is said to be inchoate; upon his death the right becomes consummate. The claim of dower becomes extinct upon the death of the widow (*White v. Parnter*, 1 Knapp 226). The right to dower attaches upon the land immediately upon marriage, or as soon thereafter as the husband becomes seised (Park on Dower, p. 3).

## PROVINCIAL LAWS.

## ALBERTA.

There is no dower in real property, but the widow has the same right in the land of her deceased husband as if such land were personal property (Can. 1894, c. 28, s. 6).

## BRITISH COLUMBIA.

By the "Dower Act" (R.S.B.C., c. 63, s. 5), a widow is not entitled to dower out of any land which has been absolutely disposed of by her husband in his lifetime, or by his will. By section 6 all partial estates and interests and all charges created by any disposition or will of the husband, and all deeds, incumbrances, contracts and engagements to which his land shall be subject or liable, shall be valid and effectual as against the right of his widow to dower. The dower clause is, therefore, unnecessary.

## MANITOBA.

A widow is not entitled to dower in the land of her deceased husband, but she has the same right in such land as if it were personal property (R.S.M., c. 48, s. 19).

## NEW BRUNSWICK.

A widow is entitled to dower out of real property of her deceased husband, whether the estate be legal or equitable, but not out of land in a state of nature or unimproved (R.S.N.B., 1903, c. 77). In a deed, the wife should be made a party of the first part, with her husband, and the words "dower, right of dower" should be inserted after the word "title." A married woman must acknowledge the execution of a deed separate and apart from her husband. A form for this will be found on p. 739.

## NORTH-WEST TERRITORIES.

There is no dower in real property, but the widow has the same right in the land of her deceased husband as if such land were personal property (Can. 1894, c. 28, s. 6).

## NOVA SCOTIA.

A widow is entitled to dower out of real property of her deceased husband, whether the estate be legal or equitable,

but not out of land in a state of nature or unimproved (R.S.N.S., c. 114). The wife is usually made a party of the first part. Forms of a wife's acknowledgement of her execution of a deed will be found on pp. 748, 749.

#### ONTARIO.

The High Court of Justice for Ontario has the like jurisdiction and powers in respect of dower as by the laws of England were, on the 4th day of March, 1837, possessed by the Court of Chancery in England (R.S.O., c. 51, s. 26). All dowresses and parties entitled to dower may be compelled to make or suffer partition or sale of lands, and whether the estate is legal and equitable or equitable only (R.S.O., c. 123, s. 5).

"Nothing in the Devolution of Estates Act shall be construed to take away a widow's right to dower, but a widow may by deed or instrument in writing (see form on p. 652), attested by at least one witness, elect to take her interest under this section in her husband's undisposed of real estate in lieu of all claims to dower in respect of real estate of which her husband was at any time seised, or to which at the time of his death he was beneficially entitled; and unless she so elects she shall not be entitled to share under this section in the undisposed of real estate aforesaid" (R.S.O., c. 127, s. 4). The statute does not fix a limit of time, but she may elect within any time allowed for the exigencies of the administration (*Baker v. Stuart*, 29 O.R. 388; 25 A.R. 445).

Where a husband dies beneficially entitled to any land for an interest which does not entitle his widow to dower at common law, and such interest, whether wholly equitable or partly legal and partly equitable, is an estate of inheritance in possession, (other than an estate in joint tenancy), then his widow shall be entitled to dower out of such land (R.S.O., c. 164, s. 2).

Where a husband has been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband did not recover possession thereof; but such dower shall be sued for or obtained within the period during which such right of entry or action might be enforced (R.S.O., c. 164, s. 3).

There is no dower in partnership land, since no partner can claim a share in specie of partnership property but only a share in the surplus after satisfaction of partnership liabilities (*Darby v. Darby*, 3 Drew. at p. 503, and cases there cited; *Re Music Hall Block*, 8 O.R. 225). It is always a pure question of fact, apart altogether from the form of conveyance, whether land is or is not partnership assets, for co-owners are not necessarily partners, and partners may be co-owners of land which is not included in the partnership assets.

The widow of a trustee is not entitled to dower, therefore, when before marriage a man contracts to sell land he becomes the quasi trustee for the purchaser, and upon marriage his wife is not entitled to dower (*Gordon v. Gordon*, 10 Grant, 466).

The widow of a tenant in common is entitled to dower, for the estate of the tenant in common descends to his heirs (*Ham v. Ham*, 14 U.C.R. 497). But the widow of a joint tenant is not entitled to dower, for the survivor takes the whole estate by the original gift, and nothing descends (*Haskill v. Fraser*, 12 C.P. 383).

In an exchange of lands the widow is not entitled to dower in the lands bought, taken, and given in exchange. She must elect as to the land out of which she will take dower (*McLellan v. Meggatt*, 7 U.C.R. 554; *Towsley v. Smith*, 12 U.C.R. 555; *Stafford v. Trueman*, 7 U.C.C.P. 41).

There is no dower in land which at the time of the alienation by the husband or at his death was in a state of nature, and unimproved by clearing, fencing or otherwise for the purposes of cultivation or occupation (R.S.O., c. 164, s. 4).

Lands dedicated by the owner for a street or public highway are not subject to dower (R.S.O., c. 223, s. 602).

Where a husband contracts to purchase lands and dies before conveyance, the contract still subsisting, his widow is entitled to dower (*Craig v. Templeton*, 8 Grant, 483).

Where mortgaged land is sold under power of sale or by legal process the wife is entitled to dower in any surplus, and the land to which she is entitled is calculated upon the basis of the amount realized for the whole land and not upon the surplus (R.S.O., c. 164, s. 8).

A sale of land for taxes extinguishes all claims, including dower (*Tomlinson v. Hill*, 5 Grant, 231), but a sale under execution against the husband, being a sale of the husband's interest only, does not affect the right to dower (*Walker v. Powers*, R. & J. Digest, 1125).

A married woman under 21 years of age, of sound mind, may bar her dower in a conveyance to a purchaser for value (R.S.O., c. 165, s. 5).

No action of dower shall be brought but within 10 years from the death of the husband of the dowress, notwithstanding any disability of the dowress or of any person claiming under her (R.S.O., c. 133, s. 25).

No arrears of dower, nor damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action (R.S.O., c. 133, s. 16).

#### PRINCE EDWARD ISLAND.

The wife of the grantor must be made a party to a deed in order to release her dower, which she does by formal words in the deed. A form of acknowledgement of release of dower will be found on p. 767.

#### QUEBEC.

For the law respecting dower, see p. 772.

#### SASKATCHEWAN.

There is no dower in real property, but the widow has the same right in the land of her deceased husband as if such land were personal property (Can. 1894, c. 28, s. 6).

#### YUKON TERRITORY.

There is no dower in real property, but the widow has the same right in the land of her deceased husband as if such land were personal property (Can. 1894, c. 28, s. 6).

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