



Instructions to Solicitor/Notary For Commercial Collateral Charge / Mortgage

NOTICE OF CONSENT

We appoint you to act on behalf of Canadian Imperial Bank of Commerce in this transaction provided you have no conflict with any other interests.

Document Preparation

The mortgage is to be registered in the name of **CANADIAN IMPERIAL BANK OF COMMERCE**. The address for service on all mortgage documents shall be the address indicated on the Letter of Direction. No other address should be used unless authorized by us.

Alterations, deletions or additions to the mortgage forms require our prior consent unless contained in the terms and conditions of our Letter of Direction.

Please note that a draft mortgage is not required and will not be verified. We rely entirely on you to ensure that the mortgage and other security documents are in accordance with our Instructions to Solicitor/Notary. In the event the documents are not prepared in accordance with these instructions and we suffer a loss as a result, we will seek to recover any loss from you.

Disbursement of Funds

If applicable, prepare our Solicitor/Notary's Interim Report/Requisition for Funds form and fax it to us at the number indicated on the Letter of Direction at least two (2) business days prior to the date funds are required. Interest shall accrue on the funds advanced from the date of the advance. If the proceeds cannot be disbursed within three (3) business days of the scheduled advance date, return the cheque or funds to us. If the funds are returned after three (3) business days following the scheduled advance date, you will be responsible for any costs incurred and any accrued interest may be charged to your law firm.

Responsibilities of the Solicitor/Notary

It is your responsibility to ensure that:

1. The mortgagor has good and marketable title to the mortgaged lands and premises described in our Letter of Direction (the "Property") and that the mortgage is registered in the proper Land Registry or Land Titles Office and forms a valid first or second charge (as instructed in our Letter of Direction) on the Property subject to only those matters approved by us prior to registration of the mortgage.
2. The mortgage is prepared on the form provided by or specified by us and the appropriate Schedule 1 is completed (if applicable) and forms part of the mortgage document to be registered. In Manitoba, Schedule 1 has been replaced by Additional Provisions (APFI) and Additional Provisions (Specific). Please ensure that the appropriate Additional Provisions are completed (if applicable) and inserted into the appropriate section of the mortgage document to be registered.
3. You notify us if the legal description or dimensions differ from those noted in our Letter of Direction or if there are title defects, reservations, restrictions, encumbrances (other than encumbrances permitted by us) and easements (other than routine public utility easements provided no part of the building on the Property is affected), and provide us with your opinion as to the possible effect of such matters on the title. There are no executions or judgments affecting the Property.
4. If the mortgagor's interest in the Property is leasehold, you thoroughly review the lease to ensure that the lease is binding between the landlord and tenant, the lease is in good standing and will be charged as a first or second charge by our mortgage (as instructed in the Letter of Direction) and that there are no unusual stipulations in the lease. All terms and conditions of any lease for leasehold lands must be acceptable to both you and us and a copy of the lease must be provided to us. Prior to registration of the mortgage, we also require that consent to our mortgage be obtained from the landlord and that CIBC's form of non-disturbance agreement also be obtained preventing the landlord from terminating the lease without first giving us adequate prior written notice and the right to remedy the default under the lease.
5. All matters pertaining to dower, homestead, spousal or other matrimonial rights (whether pursuant to legislation or at law) are complied with and our interest is protected in every respect.
6. Existing or proposed buildings or structures do not violate registered restrictions, provincial laws, municipal by-laws, or regulations of competent authorities whether because of their location, present or proposed use, their services or facilities, their construction or condition, or any other reason.
7. Easements, encroachments, reservations or restrictions do not materially affect the Property or unduly restrict its reasonable use for the purpose intended and these matters, together with all prior encumbrances, breaches of municipal/provincial laws, by-laws or regulations and other matters which qualify title, are reported to us along with your opinion as to its/their effect on the marketability of title.
8. If the mortgagor is a corporation, it is valid and subsisting, a certificate of status of the corporation is obtained, it is incorporated with full power and authority to hold, mortgage and otherwise deal with the Property and all necessary corporate action has been taken to authorize the borrowing of the principal sum with interest as stated in the mortgage and the giving of the mortgage security.
9. All other security (if any) specified in the Letter of Direction (such as a chattel mortgage or assignment of rents) is valid and binding, and has been registered or processed in the manner which will give us, for our interest, all the protection available and necessary; and that all special instructions and conditions set out in the Letter of Direction have been met and complied with.
10. Our priority is maintained over any liens and against any claims under any Construction or Builder's Lien Act or any other similar legislation. You will report any liens registered against the Property which affect the priority of our mortgage.
11. Fire insurance with all risk or extended coverage for not less than the full insurable value of the Property, with loss payable to us both as a loss payee and as a first or second mortgagee (as instructed in the Letter of Direction), is in place. The policy must contain the mortgage clause approved by the Insurance Bureau of Canada, or by us. Notify the insurer to advise us of cancellation or non-renewal of the insurance.
12. You provide us with written confirmation from all prior mortgagees that there has been no default or breach of any provisions under their security and that all payments due and owing under the mortgage have been made to date. Ensure that the total outstanding balances, including the maximum principal amount(s) of any revolving mortgages, do not exceed the amount specified in the Letter of Direction.
13. A plan of survey or surveyor's certificate signed by a qualified surveyor which sets out the Property (including all buildings and structures) in its current state is obtained. The survey must indicate:
 - a) the legal description, measurements and boundaries of the Property and any discrepancies between the legal description of the

Property and the property described in the survey;

- b) all buildings and structures and their respective dimensions and distances from the boundaries of the lands;
- c) any encroachments on or from adjacent lands and the location of all easements; and
- d) the municipal address of the Property, if there is an existing building.

If the survey is over 20 years old or changes have been made to the Property since its date, we need a declaration of possession stating any changes since that date comply with all municipal by-laws and regulations. If a survey is not available and a new one cannot be easily obtained, contact us for instructions advising what material is available in place of a survey and your opinion as to its acceptability.

- 14. You provide the mortgagor with copies of all documents as required.
- 15. All taxes, rates and assessments are fully paid as at the date of the registration of the mortgage and provide us with evidence of such payment.
- 16. If the Property is a condominium or strata unit, the condominium or strata must be registered and any parking spaces and storage lockers intended to be used in conjunction with the subject unit shall form part of our security. You must also obtain and submit:
 - a) An estoppel certificate in the form as required by the applicable condominium legislation certifying that:
 - i) the documents in paragraph (c) below are in full force and effect, unmodified and no change is contemplated;
 - ii) no meeting is pending to consider any substantial alteration or improvement to the common elements or corporate assets or to consider the termination of the government of the Property;
 - iii) the corporation is not a party to any legal action and no proceedings are pending against the corporation;
 - iv) the unit being charged/mortgaged is not in arrears of common expenses and there are no special assessments levied and unpaid or pending increases in common expenses on the unit;
 - v) the reserve fund balance;
 - vi) insurance pursuant to the Declaration and by-laws has been effected and protects us against any losses along with particulars of all insurance; and
 - vii) the directors' and officers' names and addresses and the corporation's mailing and service addresses;
 - b) the most recent financial statements (audited if available);
 - c) the Declaration, rules and by-laws, management agreement and any insurance trust agreement; and
 - d) a certificate setting out the particulars of insurance coverage.
- 17. If a corporate guarantee is required, the corporate guarantor is duly incorporated and properly authorized to guarantee this mortgage.
- 18. An execution search is conducted against the guarantor and reveals no outstanding writs of execution
- 19. Any mortgagor or guarantor not receiving a direct benefit from the proceeds of the mortgage receives independent legal advice.

Reporting on Title

Within 30 days following registration of the collateral mortgage, our form of Solicitor/Notary's Final Report and Certificate of Title is completed and forwarded (together with the enclosures indicated therein) to the address shown on the Letter of Direction under the heading "Final Report."

Fees

Your fees and disbursements are to be paid by the mortgagor.

The word "mortgage" includes the concept of hypothec as used in the Province of Quebec.