



SOLICITOR'S RESPONSIBILITIES

(Residential Mortgages – All Provinces except Quebec)

1. General

Unless otherwise provided herein, defined terms used in these solicitor's responsibilities (the "Solicitor's Responsibilities") have the meaning given to those terms in the Instructions to Solicitor/Notary (the "Instructions") that were provided to you by us.

These Solicitor's Responsibilities supplement (but do not replace) our Instructions or any other instructions provided to you by us. In the event of a conflict between the terms of these Solicitor's Responsibilities and the Instructions please contact us for clarification.

2. Acting for Us

As our solicitor it is your responsibility to attend to all matters necessary to ensure the effectiveness, validity and priority of the Mortgage and Other Documents and compliance with our Instructions including, without limitation, the matters described in these Solicitor's Responsibilities and in any applicable mortgage completion guidelines provided to you by us or contained on the Website. Our Instructions and the list of your responsibilities set out in these Solicitor's Responsibilities are not intended to be exhaustive or to replace your professional obligation to take all steps customarily taken or reasonably necessary in your jurisdiction to protect our interests as mortgagee.

3. Preparation of Mortgage and Other Documents

For all documentation that requires our name please use: HSBC Bank Canada

If any documentation requires an address for the Bank please use:

For Western Properties (BC / AB / SK / MB):
HSBC Bank Canada
Mortgage Business Services
885 West Georgia Street
Vancouver BC
V6C 3G1

For Eastern Properties (ON / NF / NB / NS / PE):
HSBC Bank Canada
Mortgage Business Services
16 York Street Suite 500
Box # 64
Toronto ON M5J 0E6

For Saskatchewan mortgages please use the following client number for registration of all mortgages and other documents: Client Number: **118335786**

4. Title to Mortgaged Property

Complete all searches and investigations necessary to verify and to provide your opinion that the Mortgagor is or will be (upon the closing of the transaction) the registered owner of an estate in fee simple/leasehold interest (if applicable) in and to the Mortgaged Property (or in the case of jurisdictions without a Torrens system has/will have (upon closing of the transaction) good and marketable title to the Mortgaged Property) free and clear of all registered liens, caveats, judgments, mortgages, covenants, charges, encumbrances or any other rights or claims having priority to the Mortgage or otherwise affecting its validity or priority other than the permitted encumbrances (the "Permitted Encumbrances") as defined in Schedule "A" hereto.

You will also ensure that the Mortgage has been registered or filed in the proper Land Registry, Land Titles Office or other appropriate public registry and constitutes a valid, enforceable and subsisting mortgage and charge against the Mortgaged Property with the priority described in the Mortgage Loan Agreement and Cost of Borrowing Disclosure Statement (the "Loan Agreement") subject only to the Permitted Encumbrances (if any).

Except in those jurisdictions where normal real estate practice does not include inquiry into judgments and executions affecting the Mortgagor or Covenantor/Guarantor, you shall ensure that there are no executions or judgments affecting the Mortgagor, Covenantor/Guarantor or Mortgaged Property.

5. Title Insurance

We will accept a title insurance policy ("Title Insurance Policy ") issued by one of the following title insurance companies and on terms agreed to by the Bank and the insurance company from time to time:

Our approved title insurance companies:

FCT Insurance Company Ltd. (previously known as First Canadian Title)

Stewart Title Guaranty Company

FNF Canada Company / Chicago Title Insurance Company

Lawyers' Professional Indemnity Company (TitlePLUS)

The Title Insurance Policy must provide that the Bank is a named insured and must have an effective coverage date that is either prior to or the same date as the date of the advance of mortgage loan proceeds.

If a Title Insurance Policy is obtained, we will still require your Final Report and Opinion but in your opinion you may refer to the Title Insurance Policy in place of your opinion on title, encumbrances, surveys, zoning and by-laws to the extent those matters are expressly addressed by the Title Insurance Policy. We will require you to report on the particulars of the Title Insurance Policy including named insured and policy number.

6. Western Law Societies' Conveyancing Protocol

We accept the use of the Western Law Societies' Conveyancing Protocol ("Protocol") on the following terms. It is your responsibility to review the Protocol for your province to determine whether or not it may apply to this transaction. For transactions to which the Protocol applies, you may disburse the mortgage funds in accordance with the Protocol, subject to the following conditions:

1. you have complied with the Protocol and have acted in accordance with our Instructions with respect to the Mortgage.
2. you agree if there is
 - a) an intervening registered (or unregistered of which you are aware) encumbrance which takes priority over the Mortgage contrary to the Instructions; or
 - b) a survey problem or defect which would have been disclosed by an appropriate surveyor's certificate prepared prior to the disbursement of the mortgage funds, then you will be responsible to us for any actual losses (including the cost of repairs) that we suffer as a result.
3. you maintain a minimum insurance coverage at least equal to the face amount of the Mortgage.

7. Mortgage and Other Documents

You will ensure that the Mortgage and the Other Documents (if any) have been prepared in the form provided or specified by us and in accordance with all of the terms and conditions set out in the Loan Agreement, the Instructions, these Solicitor's Responsibilities and the applicable mortgage completion guidelines provided to you by us or available on the Website. You must be satisfied that all security specified in the Loan Agreement (including the Mortgage and any other security such as assignments of rents, security agreements, guarantees, etc.) has been executed and delivered by the Mortgagor and Covenantor/Guarantor (if any) and is effective, valid, enforceable and legally binding and has been properly registered,

filed or recorded to protect the Bank's interests thereunder. You shall ensure that each Mortgagor, the spouse of the Mortgagor and each Covenantor/Guarantor are provided with a complete copy of the Mortgage and Standard Mortgage Terms.

If the Instructions indicate that the Mortgage will be guaranteed by a Guarantor, you will contact us at the number set out above for instructions regarding the preparation of a guarantee.

8. Loan Agreement

Each Mortgagor and Covenantor (if any) must sign both copies of the Loan Agreement (provided with the Instructions). **Whenever possible, the Mortgagor and Covenantor (if any) should sign the Loan Agreement at least two (2) days' prior to the funding of the mortgage and in all cases prior to the execution of the Mortgage.** You should provide one copy of the Loan Agreement to each Mortgagor and Covenantor (if any) and return one copy to us.

9. Construction Mortgages

If the Mortgage is a construction mortgage (this will be indicated on the Instructions), the mortgage loan will be advanced as construction progresses.

We will advise you as to the amount and availability of progress advances. Subject to us confirming that the requested progress advance is supported by a satisfactory inspection, we will issue to you a cheque in the amount of the progress advance. Any cheque issued by us will be payable, in trust, to you or your firm and will represent the available portion of the mortgage loan proceeds. Your representations and warranties contained in Section 4.5 of the Instructions shall be deemed to apply to each progress advance.

Except in British Columbia and Alberta, you must holdback from the progress advance the amounts and for the periods of time required to comply with applicable builders' lien (or equivalent) legislation. Amounts required to be heldback by you will not be withheld from the progress advance made to you.

At the time of disbursement of each progress advance by you [and at the time of each release of the holdback fund], you will complete all searches and investigations necessary to verify that there are no builders' liens (or the equivalent) or any subsequent non-Permitted Encumbrances registered against the Mortgaged Property.

If your searches disclose any builders' liens (or the equivalent) or any subsequent non-Permitted Encumbrances registered against the Mortgaged Property you will not disburse the progress advance and you will notify us immediately.

Prior to the final advance of the mortgage loan you will obtain a certificate of completion/possession (or the equivalent).

10. Encumbrances

You must be satisfied that there are no liens, caveats, judgments, mortgages, covenants, charges, encumbrances or any other claims registered against the Mortgaged Property in priority to the Mortgage and Other Documents (if applicable) or otherwise affecting the validity, enforceability or priority of the Mortgage or the Other Documents (if any) other than any Permitted Encumbrances.

11. Notification of Title Defects, Encroachments, and other Discrepancies

You will immediately advise the Bank of any discrepancies in the legal description, title defects, reservations, encroachments, restrictions, easements, covenants, charges or any other encumbrances which, in your opinion, will affect the marketability or use of the Mortgaged Property or the validity, enforceability or priority of the Mortgage or Other Documents (if applicable) which are not Permitted Encumbrances.

12. Survey

Unless otherwise directed by us, you must obtain a current survey/real property report (or we will accept a pre-existing survey/real property report together with a statutory declaration from the Mortgagor or the vendor of the Mortgaged Property confirming the accuracy of such survey/real property report and that there have been no changes to the buildings and improvements since the survey/real property reports was completed) prepared by a qualified land surveyor showing the size and shape of the Mortgaged Property (land) and the exact location of all buildings and improvements on the Mortgaged Property relative to the property lines and confirming that the buildings and improvements are contained entirely within the limits of the Mortgaged Property and there are no encroachments onto or from any adjoining properties. The survey/real property report should also show the exact location of any easements or rights of way registered against the Mortgaged Property. You will advise us prior to the advance of any mortgage loan proceeds if the survey/real property report discloses any encroachments or other issues that may affect the Bank's security.

We will accept a Title Insurance Policy in place of a survey/real property report, subject to the conditions outlined in Section 5 hererof. A survey/real property report is not required for Protocol transactions.

13. Zoning / Bylaws

Except in jurisdictions where normal real estate practice does not include inquiry into building, zoning and set-back compliance for residential properties (British Columbia, Saskatchewan and Nova Scotia), you will obtain a statement ("Compliance Statement") from the appropriate municipal officer or other official (where available) stating that the Mortgaged Property and the buildings and improvements thereon comply with all applicable building, zoning, set-back and other requirements of any competent authority relating to the location or use of the Mortgaged Property and the buildings and improvements thereon. You will advise the Bank prior to the advance of any mortgage loan proceeds if you have reason to believe that the Mortgaged Property or the buildings or improvements situated thereon do not comply with applicable building, zoning, set back or other location or use requirements of any competent authority.

We will accept a Title Insurance Policy in place of your obtaining a Compliance Statement. A Compliance Statement is not required for Protocol transactions.

14. Family Law Issues

If you have reason to believe that the Mortgagor's spouse has any unregistered interest in the Mortgaged Property whether as a result of the operation of spousal or other matrimonial/spousal rights legislation or otherwise you will take all necessary steps (including, without limitation, obtaining appropriate affidavits and certificates) to comply with (and you will verify that) all requirements of any such legislation have been complied with and our interest under the Mortgage and Other Documents has been protected.

15. Taxes

You will obtain a current tax certificate to verify that there are no unpaid taxes (including special levies, local improvement charges, interest and penalties) in respect of the Mortgaged Property as at the time of advance and that all taxes that are due have been paid in full and if not paid in full must be paid from the first advance of the mortgage loan proceeds and a tax certificate obtained at that time.

16. Fire and Other Risks Insurance

You must ensure that either a fire and extended risks or all risks insurance policy is in effect for the buildings and improvements on the Mortgaged Property in an amount not less than the amount of the Mortgage or full replacement cost value of the buildings and improvements, whichever is lesser, with loss payable to the Bank subject to the standard mortgage endorsement approved by the Insurance Bureau of Canada. We will not accept a mortgage clause that would effectively provide less coverage than provided by the Insurance Bureau of Canada clause.

If the Mortgaged Property is a strata or condominium property you must confirm that the strata or condominium corporation has all risks insurance including fire coverage in effect.

17. Condominiums

You will review the disclosure statement (for new developments), condominium/strata plan, bylaws and any amendments to bylaws of the condominium/strata corporation registered in the applicable Land Registry or Land Titles Office to ensure that they do not contain provisions including, without limitation, provisions regarding use or resale of the unit that may materially impair or have a material adverse affect on the Bank's security.

You must also obtain an estoppel/status certificate, condominium declaration or similar certificate under the applicable condominium/strata legislation. Unless the applicable condominium/strata legislation provides otherwise, the estoppel/status certificate, condominium declaration or similar certificate should indicate:

- amount of monthly or other condominium/strata fees and whether those have been paid to the date of the mortgage loan advance;
- the amount of arrears of any condominium/strata fees (if any);
- the current condominium/strata budget;
- the balance of the condominium's/strata's reserve/contingency fund;
- there are no special assessments for the Mortgaged Property that have been levied and remain unpaid when due;
- the condominium/strata corporation is not a party to any legal actions;
- there are no pending major repairs, expenses or expenditures in respect of the condominium/strata of its common property;
- the identity of property manager; and
- all risks insurance including fire coverage is in effect for the condominium/strata.

18. Property not connected to Municipal Services

If the Mortgaged Property (whether new or existing dwelling) is not serviced by municipal water and sewer systems you will obtain the appropriate certificates from the applicable authority or agency confirming that the water is suitable for human consumption.

If the Mortgaged Property is new construction (or the mortgage loan is used for the purchase of new construction) and is not serviced by municipal water or sewer systems you will obtain the following additional certificates:

- a satisfactory well driller's certificate confirming that the water flow is adequate;
- certificates from the appropriate authority or agency regarding the installation and/or use of the septic systems in accordance with relevant standards; and
- a certificate from the appropriate governmental authority as to the quality and potability of the water.

If the mortgage loan will be used to purchase a previously constructed dwelling you do not have to obtain a driller's certificate as to water flow but we do require a confirmation from the Mortgagor that the septic system is operating satisfactorily.

19. Corporate Mortgagor

If the Mortgagor is a corporation, you must provide us with your opinion (which may be based on the corporation's solicitor's opinion) that the Mortgagor is duly incorporated and in good standing with respect to any filings to be made by it under applicable legislation, and has full corporate power, capacity and authority to borrow monies and to hold, mortgage and otherwise deal with the Mortgaged Property, and all necessary corporate action has been taken to authorize the borrowing of the principal sum with interest as stated in the Loan Agreement and to authorize the execution and delivery of the Mortgage and Other Documents (if applicable) and the performance of the Mortgagor's obligations thereunder.

20. Corporate Covenantor/Guarantor

If the Covenantor/Guarantor is a corporation, you must provide us with your opinion (which may be based on the corporation's solicitor's opinion) that the Covenantor/Guarantor is duly incorporated and in good standing with respect to any filings to be made by it under applicable legislation, the Covenantor/Guarantor has full corporate power, capacity and authority to execute and deliver the Mortgage and Other Documents (if applicable) and to perform its obligations thereunder, and all necessary corporate action has been taken to authorize the Covenantor/Guarantor to execute and deliver to the Bank the Mortgage and the Other Documents (if applicable) and to perform its obligations thereunder.

21. Independent Legal Advice

We may provide you with specific instructions (whether in the Instructions or otherwise) to ensure that the Mortgagor or Covenantor/Guarantor receives independent legal advice. However, if we do not provide you with such specific instructions you will still be responsible for ensuring that each Mortgagor or Covenantor/Guarantor that does not receive a direct benefit from the proceeds of the mortgage loan (or where there are any other circumstances that warrant it appropriate or necessary) has received independent legal advice (from a solicitor not acting for the Bank) in such a manner so as to ensure that the Bank's security and position are not compromised.

22. Power of Attorney

You will **not** register a Mortgage or advance any mortgage loan proceeds on the basis of a Mortgage signed under a power of attorney **unless we have agreed in writing to the Mortgage being signed pursuant to a power of attorney**. You will immediately notify us of any Mortgage that has been or may be signed under a power of attorney. If we consent to a Mortgage and Other Documents (if applicable) being signed under power of attorney, you must ensure that the applicable power of attorney is properly registered (if required under applicable law) and you must provide us with an original or a notarized copy of the power of attorney together with your opinion confirming that the power of attorney is validly given and has legally binding effect and that the Mortgage and Other Documents have been properly executed pursuant to the power of attorney.

23. Guarantees Acknowledgment Act (Alberta only)

If there is a Guarantor, you will comply with provisions of the Guarantees Acknowledgement Act (Alberta) and ensure that each Guarantor completes a Guarantees Acknowledgement Certificate (attached to the Guarantee). The certificate must be completed by a solicitor outside of your offices and not by yourself or any other solicitor in your office. If the Loan Agreement includes a Covenantor and the Mortgaged Property is located in Alberta or the Covenantor is resident in Alberta, please contact us.

24. Fees

All fees, including but not limited to lawyer/notary, surveyor, inspection/appraisal, commitment and any and all related costs are to be paid by the Mortgagor, whether or not any mortgage loan proceeds are advanced.

25. Assumption of Mortgages

If the Mortgagor is assuming the Mortgage, the Mortgagor and Covenantor/Guarantor (if applicable) must sign an assumption agreement in the form provided by us or contained on the Website.

You will also have to ensure that you comply with the Instructions and these Solicitor's Responsibilities (to the extent they are applicable) and, without limiting the foregoing, you will provide us with your opinion that Mortgagor is or will be (upon the closing of the transaction) the registered owner of an estate in fee simple/leasehold interest (if applicable) in and to the Mortgaged Property (or in the case of jurisdictions without a Torrens system has/will have (upon closing of the transaction) good and marketable title to the Mortgaged Property) free and clear of all registered liens, caveats, judgments, mortgages, covenants,

charges, encumbrances or any other rights or claims having priority to the Mortgage or otherwise affecting its validity or priority other than the Permitted Encumbrances (if any).

You will also ensure that the Mortgage has been registered or filed in the proper Land Registry, Land Titles Office or other appropriate public registry and constitutes a valid, enforceable and subsisting mortgage and charge against the Mortgaged Property with the priority described in the Loan Agreement subject only to the Permitted Encumbrances. We will require your opinion that the mortgage assumption agreement has been duly executed and delivered by the Mortgagor and Covenantor/Guarantor (if applicable) to the Bank and that such agreement constitutes a valid and enforceable obligation of the Mortgagor and Covenantor/Guarantor (if applicable).

26. Miscellaneous

You will take all steps which should be taken by a careful and prudent solicitor/notary acting on behalf of a client including, without limitation:

- advising us of any material fact known to you which might affect our decision to make the mortgage loan to the Mortgagor upon the security of the Mortgaged Property;
- obtaining personal identification (including photographic identification) of the Mortgagor or any other person whose signature you witness if the person is not personally known to you; or if specifically required pursuant to the Instructions to Solicitor or **any Addendum thereto**;
- to the extent not prohibited by applicable law, advising us immediately in the event that it comes to your attention that any credits toward the purchase price in favour of the purchaser on a conveyance transaction (other than normal adjustments related to taxes, condominium fees and the like) arise other than by way of payment of funds through your trust account and/or monies held in a licenced realtor's trust account; and
- where you are acting on behalf of the Bank and the Mortgagor or any Covenantor/Guarantor, reviewing all the documentation, including the Loan Agreement with the Mortgagor or any Covenantor/Guarantor.

27. Documentation Required by Us

On or before the closing of the Mortgage Transaction, you agree to send us by **facsimile**:

- (a) A copy of the signed Loan Agreement and/or the Equity Power Facility Letter, if applicable.

Within **forty-five (45) days after** closing of the Mortgage transaction, you agree to send to us by facsimile:

- (a) Title Insurance policy (if used);
- (b) Your Solicitor's Final Report and Opinion;
- (c) Post registration State of Title Certificate (or equivalent in jurisdictions other than British Columbia) for the Mortgaged Property evidencing and certifying registration of the Mortgage and the discharge of any non-Permitted Encumbrances.

If we have indicated that we only require a fax copy, please do not send us the original documents.

Within **forty-five (45) days after** closing of the Mortgage transaction, you agree to courier/deliver to us the following original documentation:

- (a) Signed original copy of the Loan Agreement and/or Equity Power Facility Letter, if applicable;
- (b) In the case of "non-electronic" Land Title registry systems, a duplicate registered copy of the Mortgage with evidence of registration particulars endorsed thereon. In Alberta, where a duplicate registered copy of the Mortgage is not issued, please provide an unregistered copy of the original signed Mortgage together with the customer registration notice issued by the Land Title Office evidencing the registration of the Mortgage;

- (c) In the case of “electronic” Land Title registry systems, an original signed Mortgage (if used in the registration process) and/or any acknowledgement and direction signed by the Mortgagor and Covenantor/Guarantor (if applicable) acknowledging the terms of the Mortgage and authorizing and directing the electronic signing and registration of the Mortgage together with any document or other evidence of the registration issued by the Land Title office; and
- (d) Signed original copies of any Other Documents including, without limitation, any guarantees, assumption agreements, transfer agreements, separate assignment of rents, powers of attorney and certificates of independent legal advice.

We do not require copies of any searches, property tax certificates, estoppel/status certificates or any other documents not specifically requested herein. You should retain copies of such documentation in your file.

At the end of this loan or mortgage agreement is a section entitled “Consent Regarding Disclosure to Multiple Borrowers” (the “Disclosure Section”).

If there is more than one borrower on this loan or mortgage, each borrower has the right to receive separate documentation related to the loan or mortgage. If any borrower checks the “Request for Separate Disclosure” box in the Disclosure Section, you will ensure that the Borrower Disclosure Choice Form (enclosed with your Instructions or available on the Website) is completed for each borrower who has selected separate disclosure. If there is more than one loan or mortgage, borrowers must make their selection on each individual loan or mortgage agreement and a Borrower Disclosure Choice Form must be completed for each individual loan or mortgage.

The completed Borrower Disclosure Choice Form(s) **must be** faxed at the time of funding, along with the other required documents set out in the Instructions.

SCHEDULE "A" TO SOLICITOR'S RESPONSIBILITIES

PERMITTED ENCUMBRANCES

For the purposes of the Solicitor's Responsibilities and Solicitor's Final Report and Opinion, the term "Permitted Encumbrances" means all of the following types of registered restrictions, covenants, easements, rights of way and encumbrances provided that they do not, individually or in the aggregate, materially affect the value or use of the Mortgaged Property:

- (a) Any minor registered restrictions or covenants that run with the land;
- (b) Any registered municipal agreements and registered agreements with publicly regulated utilities;
- (c) Any minor easements or rights of way for the supply of domestic utility or telephone services to the property or adjacent properties; and
- (d) Any encumbrance which you have reviewed with the Bank and which the Bank has approved in writing.