INSTRUCTIONS TO SOLICITOR

RE: BRIDGEWATER Bank MORTGAGES

These detailed instructions apply to every solicitor (or notary, in British Columbia) who is retained by letter from Bridgewater Bank or its authorized agent to act for Bridgewater Bank in a mortgage transaction.

1. **Representation**

We confirm you may act for the mortgagor as well. In that case, you are obliged to raise all issues which may be of importance to us or to the mortgagor and to explain the legal effect of such issues to all such parties that may be affected by them. We also understand that any information received from us or the mortgagor in connection with the matter cannot be treated as confidential so far as the other party is concerned and that, if a conflict arises between us and the mortgagor which cannot be resolved, you will thereafter be unable to act for either party in respect of the matter. We also understand that if you act for us and the mortgagor in respect of the mortgage, you may not subsequently be able to act for either party in any foreclosure or other collection proceedings on this mortgage.

We also confirm that all enquiries and correspondence should be directed to the Mortgage Administration Associate handling this transaction at Bridgewater Bank as noted on the fax cover.

You must contact us and obtain further instructions if prior to or at the time of disbursing mortgage funds on this mortgage you become aware of any suspicion of fraud or material fact that might adversely affect Bridgewater Bank’s decision to advance funds including any of the following:

● A Vendor Take Back (VTB) or other secondary mortgage financing is to be registered concurrently with our mortgage or following funding unless the Mortgage Commitment indicates that a VTB mortgage or other secondary mortgage financing is permitted.

● Any recent sale that appears to be a “flip” of the property or pending sale or further transfer of ownership of the property.

● Any credits towards the purchase of the property are made other than by payment of funds through a solicitor’s trust account, realtor’s trust account or other verified source, such as deposits allegedly paid by the purchaser directly to the seller or credits towards the purchase of an unusual nature.

● The source of funds for the transaction cannot be identified as coming from or having come from an account at a Canadian financial institution.

1. **Documents**

All required mortgage forms and related documents are in the Solicitor Resource Centre of our website **solicitordocs.ca**. These forms should be used in place of any forms provided with the initial instruction letter. Alterations, deletions or additions to the mortgage forms may not be made unless specifically required in our Mortgage Commitment, these solicitor instructions or authorized by our prior consent.

The Mortgage Disclosure Statement in final form with any changes in loan terms and any other documents not on the website will be sent to you directly. You must ensure that the mortgagors, and covenantors if applicable, sign all copies of the Disclosure Statement at least two clear business days before they become obligated on the mortgage. A mortgagor or covenantor who wishes to enter into the mortgage transaction in a shorter time must consent to receiving the Disclosure Statement in less than two days before entering the mortgage transaction. Each mortgagor and covenantor (if applicable) must receive one signed copy. **One signed copy is to be returned with your Request for Funds.**

We rely entirely on you to ensure that the mortgage and other security documents are in accordance with our instructions and applicable law. Please do not submit draft documents to us for review. Please note the following for document completion:

● **Dates**: Interest adjustment date and payment dates, unless otherwise approved, should be as set out in the Mortgage Disclosure Statement.

● **Payment amount**: The mortgage must be drawn using the monthly payment amounts and not any other payment frequency selected by the borrower. The payment amount must be the principal and interest component only (exclude tax component).

● **Alberta high ratio**: For a mortgage on a property in Alberta, The Law of Property Regulation 2(1) statement which is set out as Section 11(e) on our Alberta form of mortgage must be inserted if the mortgage is a high ratio mortgage insured by CMHC or other mortgage insurer. This statement must be deleted from the form of mortgage for any other mortgage.

● **Adjustable rate mortgage**: For adjustable rate mortgages, insert the interest rate as “prime rate -/+ \_\_\_% [the percentage, if any, as in the Mortgage Disclosure Statement] and the calculation period as semi-annually not in advance.

* **3 Year adjustable rate mortgage**: If the adjustable rate mortgage is for a 3-year term, the 3 Year Adjustable Rate Mortgage Schedule must be appended to the registered mortgage.
* **Portable mortgage:** A transfer of an existing mortgage to a new property. A **straight port** refers to when the principal amount for the new property is the same as the existing amount of the mortgage. The terms and conditions of the mortgagor’s existing mortgage remain in effect. **New disclosure and Standard Mortgage or Charge Terms should not be provided.**
* A **straight port decrease** refers to when the principal amount for the new property is **less** than the existing amount of the mortgage. The terms and conditions of the mortgagor’s existing mortgage remain in effect. **New disclosure and Standard Mortgage or Charge Terms should not be provided.**
* A **straight port plus a new second mortgage** refers to when the principal amount for the new property is **more** than the existing amount of the mortgage. To complete this transaction, we will require two mortgages on title. The terms and conditions of the mortgagor’s existing mortgage remain in effect for the first mortgage.

The additional funds required for the purchase of the new property will be advanced through a second mortgage. Please follow the same instructions for an initial mortgage transaction for the second mortgage. A new Disclosure Statement as outlined in this section will be provided to you. We require you to provide to the mortgagor new Standard Mortgage or Charge Terms and explain to the mortgagor that the second mortgage may be subject to different terms and conditions from the first mortgage.

* A **gap port** refers to the porting of a mortgage where there is a gap in time between the date of sale of the existing property and the possession date of the new property (maximum of 30 days).

On the first closing date, you will pay in full to Bridgewater Bank the mortgagor’s outstanding mortgage amount plus applicable charges and fees as outlined in the Portable Mortgage Statement. The charges and fees will be calculated in accordance with the terms of the existing mortgage.

The mortgage will be maintained during the gap port period. We will continue to apply the regular payment amount to the mortgage. The principal amount advanced on the new closing date will reflect the application of the regular mortgage payments during the gap port period:

1. If there is no change to the principal amount of the mortgage, the mortgagor will not be subject to any prepayment charge. If we required the mortgagor to pay any prepayment charge or repay any cash back amount on the first closing date, we will refund those amounts to the mortgagor if any.
2. If the principal amount of the mortgage is reduced because of the port process, the mortgagor will be subject to a prepayment charge **if** the reduction of principal amount exceeds any allowable prepayment privilege. This amount is calculated on the difference between the principal amount as of the first closing date and the principal amount on the new closing date.
3. If the purchase of the new property requires additional funds, we will port the mortgage to the new property as explained in a) above. The additional funds required will be advanced to you by way and on the terms of a new second mortgage. The mortgagor will be required to sign a new Mortgage Commitment and a new disclosure statement for the new second mortgage. The terms and conditions of the new second mortgage may be different from those of the mortgage.

● **Progress Advance Mortgage**: If the Mortgage Commitment provides for progress advances during a progress advance period, the mortgage must have:

* The interest rate as Bridgewater Bank’s prime rate plus/minus the percentage set out in the Mortgage Commitment.
* The calculation period as compounded semi-annually.
* The payment amount as interest only on the 1st day of each month.
* The interest adjustment date and the first payment date as the dates set out in the Commitment.
* The balance due date as the date that is 1 year later than the maturity date set out in the Commitment so that the balance due date is the last day of a term that is the total of the one year convertible and the end term in the Commitment.

On completion of the progress advances (unless the Mortgage Commitment specifically requires pay out in full at that time), the mortgage converts to a fixed amount mortgage for a fixed term of years which is set out in the Mortgage Commitment. The interest rate and payments for the new term will be provided to you in a supplementary Mortgage Commitment and Progress Advance Mortgage Conversion Agreement and Disclosure Statement. At conversion, we will provide you with the supplementary Mortgage Commitment and Progress Advance Mortgage Conversion Agreement and Disclosure Statement setting out these new terms that you must have signed, returned and register an agreement amending the registered mortgage to these terms.

1. **Verification of identity of each mortgagor and guarantor**

We require that you ascertain for us the identity of each mortgagor and covenantor by examining photo identification and then completing the Customer Identification form. Acceptable pieces of identification are set out on the form. The person must be physically present when you ascertain his or her identity. We also require that you ask questions of each mortgagor and covenantor to determine if they may be acting for a third party. If so, you must also complete the applicable Third-Party Declaration forms. All required identity verification forms are in the Solicitor Resource Centre of our website **solicitordocs.ca**.

Where a mortgagor or covenantor is a corporation, trust or other entity, you must complete the personal identification requirement for each officer or trustee signing the mortgage and other documents on behalf of the corporation or trust or other entity. You must also confirm the existence of the corporation, its name and address, and the name of its directors as appears on the certificate of corporate status or the corporation’s annual filing under applicable securities or corporation information legislation. If it is a partnership or other entity, you must also confirm its existence by referring to the partnership agreement, articles of association or similar record that ascertains its existence. You must report this information to us in addition to the Customer Identification form.

The completed Customer Identification, and if applicable Third Party Declaration form, must be faxed to us before you disburse the loan advance.

1. **Title and other due diligence**

**For certain mortgage products, we will require confirmation of title insurance rather than western protocol or registration. We will advise you of this in our mortgage instruction letter.**

For mortgages in Ontario, the Atlantic provinces and the territories, the mortgage must be completed with title insurance. In British Columbia, Alberta, Saskatchewan and Manitoba, if not otherwise directed, you may choose to complete the mortgage with or without title insurance and in accordance with the western law societies conveyancing protocol (the “Protocol”). However, any title described as “in trust” or similar designation or mortgage to be signed under power of attorney must be with title insurance.

Your title and other due diligence responsibilities in connection with each mortgage transaction are set out in section 5. The changes to these responsibilities for title insured mortgages are set out in section 6 and for mortgages completed in accordance with the Protocol in section 7.

All mortgage transactions, including title insured mortgages and Protocol closing mortgages, must meet best current conveyancing practices in accordance with any guidelines from the local law society (or,if you are a Notary in BC, the Society of Notaries Public.)

1. **Your responsibilities**

It is your responsibility to confirm and ensure that:

* + - 1. The mortgagor has good and marketable title to the property to be mortgaged subject to only those matters approved by us prior to registration of the mortgage.
      2. The mortgage is registered in the proper land registry office in the name of **Bridgewater Bank, 150 926 5th Ave SW, Calgary, AB T2P ON7** and is a valid first, or if applicable second, charge on the property.
      3. The mortgage is prepared in accordance with the payment provisions and other terms of our Mortgage Commitment and the Disclosure Statement.
      4. If the property is a leasehold, that the lease is binding between the landlord and tenant, is in good standing, and is or will be charged as a first charge in favour of **Bridgewater Bank** by the mortgage. We require an agreement from the landlord to not terminate the lease without first giving Bridgewater Bank adequate written notice and the right to remedy any default under the lease. If the property is not identified in our Mortgage Commitment as leasehold, please refer to us for further approval.
      5. There are no executions or judgments affecting the mortgaged property.
      6. The survey requirement detailed below is satisfied.
      7. The location or use of the building and any ancillary building or structure does not violate any registered restrictions, provincial statutes and regulations of any competent authority.
      8. Fire insurance with extended coverage and any other insurance that may be specified in our Mortgage Commitment is/are in force and endorsed with **Bridgewater Bank** as first loss payee.
      9. All other security specified in the Mortgage Commitment, such as a security agreement over chattels or an assignment of rents, is provided and registered as considered necessary to protect our interest.
      10. If the mortgaged property is a condominium unit or strata lot, you must obtain a Status/Estoppel Certificate or other certificate in the form provided for in the applicable condominium or strata legislation and determine that all document(s) are satisfactory. Any parking spaces and storage lockers intended to be used in conjunction with the subject unit must be included in our security.

The Certificate must indicate that:

* + - * 1. All common expenses are paid to the date of advance.
        2. There are no special assessments levied or pending increases in common expenses on the unit.
        3. The condominium or strata corporation is not a party to any legal action.
        4. The condominium or strata corporation has reasonable reserve funds.
        5. There are no pending major repairs to the condominium or strata.
        6. Insurance coverage is in place and protects us against loss.
      1. If the mortgagor or covenantor is a corporation, it is valid and subsisting with full power and authority to hold mortgage and otherwise deal with the property or to guarantee the mortgage and that all necessary corporate action has been taken to authorize the borrowing or the guarantee and the giving of the mortgage or other security.
      2. An execution or judgment search against each guarantor named in the Mortgage Commitment shows no outstanding writs of execution or judgements.
      3. All advances on the mortgage have priority over construction, builders and similar liens. A holdback from advances should be made by you in such amounts and for such periods of time as may be required by the Construction Lien Act, the Builders’ Lien Act or any similar legislation in the province in which the mortgaged property is located.
      4. If there is a Matrimonial Property Act, a Family Law Act or any similar legislation under a different name in the province in which the mortgaged property is located, all requirements are complied with and our interest is protected from all spousal and other rights.
      5. The mortgagors, and the covenantors if applicable, execute all copies of the Disclosure Statement for the mortgage including the Multiple Borrower Disclosure part and if applicable the consent to receiving it less than 2 business days before entering the mortgage and each receive one copy. You will receive a subsequent Disclosure Statement if the cost of borrowing has changed.
      6. If any mortgagor or covenantor is not receiving a direct benefit from the proceeds of this mortgage, you consider the need for independent legal advice and see such advice is received before or when signing the mortgage.
      7. The mortgage documents are executed in your presence (other than if under benefit of independent legal advice), that all the parties who are signing them are who they purport to be and that all parties appear to understand the effect of the documents they are signing.
      8. All mortgagors and covenantors acknowledge receipt of a copy of the Mortgage, and where applicable the Standard Mortgage or Charge Terms, before signing the mortgage and have an opportunity to review them. In Ontario where the mortgage is being completed by electronic registration, the covenantor should sign the Acknowledgement and Direction with Guarantee in the form on the website. In Alberta, Saskatchewan and the Yukon, the covenantor must sign the Guarantee Agreement with acknowledgement in the form on our website.
      9. Where the property is a new construction and is not connected to local municipal services or where you have knowledge of circumstances that indicate there may be problems:
         1. A satisfactory copy of the septic tank certificate together with any other certificates required by the appropriate governing body are obtained and reviewed by you for existing construction.
         2. A satisfactory copy of a certificate from the health authority or accredited laboratory indicating the well water is suitable for human consumption and a satisfactory well driller’s certificate confirming that the water flow is adequate.
      10. If the property is of new construction that is or should be covered under a provincial new home warranty plan, the new home warranty plan enrolment numbers for the builder and the housing unit must be obtained as well as a completed copy including any attachments of a satisfactory Certificate of Completion and Possession or similar certificates under the warranty plan of the province where the property is located prior to disbursement of funds.
      11. If the Mortgage Commitment and our instruction letter state the mortgage is to be a second charge or mortgage on the property, that you (i) obtain a statement from the holder of the first mortgage to confirm the outstanding amount, the interest rate and the term are consistent with the permitted terms for a first mortgage set out in the Mortgage Commitment, and that there are no arrears or other material default under the first mortgage; and (ii) review the first mortgage and advise us whether the mortgage permits additional advances or secures a revolving credit, and if we accept that, to give notice to the holder of the first mortgage of our second mortgage.
      12. Unless the Mortgage Contract or our specific instruction states the property is for rental or investment, the owner-occupancy statutory declaration must be obtained from the mortgagor. The sworn declaration must be faxed to us before you disburse the loan advance.
      13. Any other conditions for advance in the Mortgage Contract which have not been satisfied and are noted as (solicitor) or (lawyer) must be completed.

1. **Title insured mortgages**

If you complete the mortgage with title insurance, you must complete the title insurer’s requirements in place of the foregoing title related requirements. We accept title insurance policies from First Canadian Title, Stewart Title Guaranty Company, TitlePlus and FNF Canada Company. We will require the Acknowledge of Title Insurance Mortgage Policy with the lender’s policy number in the Requisition for Funds.

It is your responsibility to advise us of any matter not covered by the title insurance policy prior to disbursement of funds and obtain our instructions. Where there is more than one advance, you are responsible for obtaining any subsequent or additional endorsements from the title insurance company. You must also ensure that the required premium is paid to the title insurance company.

You must satisfy the solicitor’s responsibilities set out in Section 5 except those items covered by the title insurance policy, i.e. (a), (b), (e), (f) and (g).

1. **Western Law Societies Conveyancing Protocol (“Protocol”)**

It is your responsibility to review the Protocol applicable to your province to determine whether or not it may be applied to this particular mortgage transaction. If the mortgage transaction is one to which the Protocol applies, then you may disburse the mortgage funds in accordance with the Protocol applicable in your province and the following shall apply:

1. All of the items of the above section 5 apply, except for items otherwise specifically provided in the Protocol including (a), (b), (e), (f) and (g).

2. You are responsible to ensure that the mortgagor will obtain good and marketable title to the mortgaged lands and premises described in the Mortgage Commitment and that the mortgage will be registered in the proper land registry or land titles office and will be a valid first charge on the property subject only to any intervening registrations between the day before the funds are disbursed to the date of registration of the mortgage and those matters approved by us prior to registration of the mortgage.

3. On the day prior to the date the mortgage funds are disbursed, you will ensure that there are no executions or judgments affecting the property.

4. You will ensure that all known discrepancies in the legal description, title defects, reservations and restrictions, encroachments, encumbrances and easements (other than routine easements for public utilities provided no part of the building on the property is affected) are referred to us with your opinion as to its/their marketability of title and you undertake to notify us immediately upon receiving any information alleging any discrepancy of title defect or any encumbrance loss of priority of the mortgage.

5. You will complete and provide to Bridgewater Bank the Western Law Societies Conveyancing Protocol: Solicitor’s Opinion as found on our website. By issuing the Protocol opinion for the mortgage transaction, you represent that:

(a) This mortgage transaction is a transaction to which the Western Law Societies’ Conveyancing Protocol applies.

(b) You have complied with the Protocol in the conduct of this mortgage transaction and have acted in accordance with our Instructions to Solicitor (which are incorporated herein) with respect to the mortgage subject to any qualifications noted in your opinion which have been accepted by us.

(c) You maintain minimum insurance coverage at least equal to the face amount of the mortgage.

(d) You acknowledge and agree thatif there is:

(i) An intervening registered interest in the property or an unregistered interest in the property of which you are aware which takes priority over the mortgage contrary to these instructions; or

(ii) A survey problem or title defect which would have been disclosed by an appropriate Plan of Survey or Surveyor's Certificate/Real Property Report prepared prior to the disbursement of mortgage funds,

then you will be responsible to us for any actual losses (including the cost of repairs) that we suffer as a result.

1. **Surveys**

A Plan of Survey or Surveyor’s Certificate/Real Property Report of the property signed by a qualified surveyor, which sets out the property (including all buildings and structures) in its current state and which is not more than 10 years old, must be provided with your Solicitor’s Final Report and Certificate of Title. If any changes have been made to the property since the date of the survey, a Declaration of Possession must be given to the effect that any changes or additions since the date of the survey comply with municipal by-laws.

The survey should indicate:

* + 1. The lot and plan numbers or concession number, if applicable, measurements and boundaries of the property and any discrepancies between the legal description of the property and the property described by the survey.
    2. All buildings, structures or the foundations of the buildings under construction and their respective dimensions and distances from the boundaries of the lands.
    3. Any encroachments on or from adjacent lands and the location of all easements.
    4. The municipal address of the property if an existing building.

A Plan/Survey is not required if the property is a single condominium unit or strata lot.

Title Insurance Option: If a Plan of Survey or a Surveyor’s Certificate/Real Property Report to satisfy these requirements is not available, we will accept title insurance issued by an approved title insurance company that covers defects and deficiencies a survey may otherwise have disclosed.

Western Protocol Option: If a Plan of Survey or Surveyor’s Certificate/Real Property Report (or in Manitoba, a Building Location Certificate and Zoning Memorandum) is not available, then in lieu of such survey or report we will rely on your opinion issued in accordance with the Western Law Societies Conveyancing Protocol.

1. **Taxes**

All tax bills issued and unpaid at the interest adjustment date are to be paid in full.

1. **Fire and hazard insurance**

You must verify that fire insurance and extended coverage for not less than the full replacement value is in force, confirm that the mortgage clause of the Insurance Bureau of Canada is included in the policy, and arrange for loss to be payable to Bridgewater Bank as first mortgagee prior to the first advance of the mortgage loan. Unless otherwise specified by us, please advise the insurance company that we do not require a copy of the policy or coverage for any renewals. When the Mortgage Commitment states the mortgage is on a rental or income producing property, we require “loss of rental income” for a minimum 12-month period be included in the insurance coverage.

1. **Disbursement of Funds**

No first advance may be made after the expiry date set out in our Mortgage Commitment unless you have confirmation that we have granted an extension. When ready to disburse the mortgage funds, please prepare our Requisition for Funds form and fax/email it to us at least 3 business days prior to the date funds are required.

Interest will accrue on the mortgage funds from the date of funding. Interest to accrue to the interest adjustment date will be debited to the mortgagor’s bank account on the interest adjustment date. Interest accrued on progress advance mortgages will be debited to the mortgagor’s bank account monthly except the interest to the last progress advance which will be deducted from the last advance.

**If funds cannot be disbursed within three business days of the scheduled advance date, you must notify us and immediately return the cheque or funds to us or your firm will be responsible for all interest and costs accrued from the date of the scheduled advance.**

If the mortgagors have selected a mortgage with a cash back offer, the cash back amount will be added to the net advance.

1. **Reporting on title**

Within thirty days after the loan has been disbursed, the Solicitor’s Final Report form should be completed, and together with all the documentation specified, should be forwarded to Bridgewater Bank, Mortgage Operations, Suite 150, 926 – 5th Avenue SW, Calgary, AB T2P 0N7. If the final documentation will be delayed, you must advise us in writing of the anticipated date of our receipt of that documentation.

If the mortgage is completed with title insurance, you do not have to submit the following documents to us with your Final Report:

● survey

● zoning and building by-law report

● sheriff’s certificate/G.R. certificate

● tax certificate

● corporate documents for a corporate borrower or guarantor

● independent legal advice letter or certificate

All documents used in completing your responsibilities should be kept for at least 10 years.

1. **Costs**

All costs with respect to this mortgage loan, unless otherwise specified in our Mortgage Commitment or special instructions, are the responsibility of the mortgagor(s).

Thank you for representing our interests in these transactions.

**BRIDGEWATER BANK**