



# Application for Irrevocable Documentary Credit

Terms and Conditions applicable to the Irrevocable Documentary Credit accompany this form.  
For further assistance, call our Customer Support Line at 1-877-905-0365.

FOR BANK USE ONLY		
To: <b>Canadian Imperial Bank of Commerce</b> (the "Bank") Branch of Account (Address):	Bank Reference No.	Date Received

**Note:** The name of the Applicant appearing on this Application must be the same as the name of the party signing the Application. If other liability arrangements are desired, contact the Customer Support Line for assistance.

**Place an "X" in the appropriate box(es):**

Applicant is a new CIBC Letter of Credit customer       Applicant is an existing CIBC Letter of Credit customer       Applicant information requires updating

**→ START HERE**

(1) Please issue the following Irrevocable Documentary Credit <input type="checkbox"/> By Mail <input type="checkbox"/> By Teletransmission <b>Note:</b> If the Beneficiary is located in Hong Kong, the Bank will issue the Credit through its Hong Kong Branch. Please issue the Credit as Transferable <input type="checkbox"/> Yes <input type="checkbox"/> No	(2) Expiry Date of Credit (yyyy/mm/dd)
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Beneficiary's Bank (full name and address of Beneficiary's Bank, if known - refer to Instructions for Completion, Item 4)

(3) Applicant (full name, address and fax number)	(4) Beneficiary (full name, address, contact name, telephone and fax number)
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(5) Currency	Amount _____ % more or less allowed
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(6) Drafts to be drawn at

Sight       \_\_\_\_\_ days Sight       \_\_\_\_\_ days after Bill of Lading date

Payable on \_\_\_\_\_ (specify date)       Drafts not required

(7) Partial Shipments - If left blank, partial shipments will be prohibited. <input type="checkbox"/> Permitted <input type="checkbox"/> Prohibited	(8) Transhipments - If left blank, transhipments will be prohibited. <input type="checkbox"/> Permitted <input type="checkbox"/> Prohibited	Latest Shipment Date (yyyy/mm/dd)
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(9) Shipment:

From \_\_\_\_\_ To \_\_\_\_\_ Via \_\_\_\_\_

(10) Covering (brief description of merchandise)

(11) Shipping Terms

<input type="checkbox"/> FOB _____ Named port of shipment	<input type="checkbox"/> CPT _____ Named place of destination
<input type="checkbox"/> FCA _____ Named place	<input type="checkbox"/> CIF _____ Named port of destination
<input type="checkbox"/> CFR _____ Named port of destination	<input type="checkbox"/> CIP _____ Named place of destination
<input type="checkbox"/> EXW _____ Named place	<input type="checkbox"/> Other _____ Incoterm and named place

\_\_\_\_\_ Version of Incoterms (if known) (e.g. CPT Toronto Incoterms 2000) (refer to Instructions for Completion, Item 11)

**Documents Required** (refer to Instructions for Completion, Items 12-16)

- (12)  Commercial Invoice in \_\_\_\_\_ copies      (13)  Canada Customs Invoice in \_\_\_\_\_ copies
- (14) Transport Documents:  Full Set    OR     Full set less \_\_\_\_\_      Issued by: \_\_\_\_\_
- Multimodal (Combined) Transport Bill of Lading (covering at least 2 modes of transport)
- Clean on board Marine Bill of Lading (covering port to port shipment)
- Air Waybill     Forwarder's Cargo Receipt     Other (please specify): \_\_\_\_\_
- Consigned to:  Shipper's order blank endorsed     Applicant     Other (please specify): \_\_\_\_\_
- Marked notify \_\_\_\_\_      Freight:  Prepaid     Collect
- (15)  Insurance Policy/Certificate covering \_\_\_\_\_ (specify risks or requirements)    OR     Insurance covered by applicant
- (16) Other Documents (please specify title, content and number of copies)

(17)  Additional Conditions (refer to Instructions for Completion, Item 17)

(18)  All banking charges other than the issuing bank's charges are for the beneficiary's account    OR

All banking charges are for the applicant's account

(19) Documents must be presented not later than \_\_\_\_\_ days after date of shipment

**IMPORTANT**

This Application requests the Bank to establish an **Irrevocable** Documentary Credit ("Credit") subject to Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, current at the time of issuance of the Credit ("UCP"). After establishing the Credit, the Bank will be bound to make payment thereunder upon timely compliance by the party entitled to request payment thereunder with the terms of the Credit and presentation of the documents described therein. The Applicant is responsible for providing the Bank with a sum equivalent to that which the Bank so pays or is or may be required to pay.

After establishing the Credit, in accordance with the international banking practice, the Bank will be unable either to vary or to cancel the Credit on the Applicant's instructions alone. Variation or cancellation of the Credit will require the consent of all parties thereto, including the Beneficiary. In particular, the Bank may **not** be able to refuse payment under the Credit should a dispute arise between the Applicant and the Beneficiary or any other party concerning performance of any sales contract, any transport contract, or other underlying transaction in connection with which the Applicant has requested the Bank to issue the Credit.

Please refer to the text of UCP for the complete terms of the agreements between the parties to the Credit.

The undersigned hereby request(s) the Bank to issue its Irrevocable Documentary Credit substantially in accordance with the foregoing instructions and the Bank's usual practice. The undersigned acknowledges receipt of and agrees to be bound by the Instructions for Completion applicable to the Application for Irrevocable Documentary Credit and the Terms and Conditions applicable to the Irrevocable Documentary Credit. Nothing herein shall oblige the Bank to issue its Irrevocable Documentary Credit.

Name of Applicant

\_\_\_\_\_ Authorized Signature of Applicant      \_\_\_\_\_ Authorized Signature of Applicant

Date      Contact Person      Telephone No.

**FOR BRANCH USE ONLY**

**Instructions for Branch:**

- a) Please make a copy of the original completed, signed application and provide it to the Applicant.
- b) Send a copy of the completed, signed application to Trade Finance Operations (TFO) via fax or inter-office mail. Retain the original completed, signed application in your records.

\_\_\_\_\_ Branch Transit No. and Domicile

Contact Person      Telephone No.

**We hereby authorize issuance of the above Irrevocable Documentary Credit and confirm that the Applicant's signature and authority to execute have been verified.**

Auth. No.      \_\_\_\_\_ Authorized Signature      Auth. No.      \_\_\_\_\_ Authorized Signature of Countersignature

## TERMS AND CONDITIONS APPLICABLE TO THE IRREVOCABLE DOCUMENTARY CREDIT

**THE APPLICANT HEREBY AGREES WITH CANADIAN IMPERIAL BANK OF COMMERCE (the "BANK") THAT THE FOLLOWING TERMS AND CONDITIONS APPLY TO THE IRREVOCABLE DOCUMENTARY CREDIT ISSUED BY THE BANK AT THE REQUEST OF THE APPLICANT AND TO ANY CREDIT WHICH MAY BE ISSUED IN TRANSFER THEREOF:**

**1. Definitions.** In this Agreement:

**"Applicant"** means each party signing the Application as defined below;

**"Application"** means the Application for Irrevocable Documentary Credit on the Bank's Form 437 as may be amended by the Bank from time to time;

**"Beneficiary"** means the party designated in the Application in favour of whom or which the Applicant has requested the Bank to issue the Credit and, if the Credit is designated as transferable, each person to whom the Beneficiary transfers the Credit or a part thereof;

**"Branch"** means the branch or office designated in the Application;

**"Credit"** means the irrevocable documentary credit which the Applicant has requested the Bank to issue in substantial compliance with the instructions in the Application and the Bank's usual practice and, to the extent that the Credit is transferable, each credit issued in transfer thereof;

**"Drawing"** means any demand or request for payment or for acceptance and payment under the Credit by a party entitled to make such demand or request whether by draft, telecommunication, written demand or other effective means and includes any advance of funds made under a Red Clause or any payment of the proceeds of the Credit made or to be made by the Bank into court or otherwise to the credit of the outcome of any action or proceeding;

**"Force Majeure Event"** means:

- i) fire, flood, earthquake, elements of nature or acts of God,
- ii) acts of war, terrorism, riot, civil disorder, rebellion, strike, lockout or other labour disruption,
- iii) equipment, systems, communications, power or transmission disruption, failure, malfunction or error,
- iv) any measure taken by any actual or purported domestic or foreign government or other authority that prohibits, restricts, taxes, confiscates, expropriates, withholds or otherwise places an embargo on or interferes in whole or in part with any Credit request or issued under this Agreement; or any other similar cause beyond the reasonable control of the Bank;

**"Foreign Currency"** means any currency other than Local Currency;

**"Local Currency"** means currency of the country in which the Branch is situate;

**"Red Clause"** means any provision in the Credit whereby the Bank undertakes, or authorizes an intermediary bank or other party to undertake, to advance funds to the Beneficiary prior to any presentation under the Credit of documents evidencing the shipment of goods and includes any provisions concerning the repayment of such advances or the payment of interest thereon;

**"Service Provider"** means The Bank of New York as a provider of services to the Bank in connection with the Credit including the issue, payment or amending of the Credit or any replacement of The Bank of New York chosen by the Bank.

The expressions "herein", "hereof", "herewith", "this Agreement" and "this Application" refer to the Application for Irrevocable Documentary Credit and to these Terms and Conditions.

- 2. Communications.** The Applicant authorizes the Bank to send to the Applicant at the address noted in the Application, or at any further address provided to the Bank by the Applicant by written notice, and at the risk of the Applicant all communications relevant to the Credit by ordinary mail or facsimile transmission and any such facsimile transmission shall be deemed to be received at the time of transmission.
- 3. Authorization to Pay.** The Bank is hereby irrevocably authorized and directed to pay forthwith any Drawing purporting to be made by a Beneficiary or any other person to whom the Bank is authorized to make payment pursuant to paragraph 15 hereof up to the maximum amount and in the currency specified in the Credit. The Bank may effect such payment without reference to, confirmation of or verification by the Applicant, it being expressly agreed that any Drawing as aforesaid shall be, as between the Applicant and the Bank, the Bank's irrevocable and sufficient authority for making payment under the Credit.
- 4. Reimbursement, Payment or Prepayment by Applicant.** The Applicant agrees, forthwith upon demand, to provide the Bank with funds to meet all Drawings that the Bank is to pay under the Credit or to reimburse the Bank for each Drawing that the Bank has paid under the Credit or, if required by the Bank in its sole discretion, to prepay all amounts for which the Bank might become liable under the Credit provided, however, that in respect of a Drawing made under a Red Clause, the Applicant agrees, forthwith upon demand, to reimburse the Bank for the portion of the Drawing or of any interest payable thereon which is not repaid or paid in accordance with the requirements of the Red Clause. Unless otherwise agreed with the Bank in writing, each prepayment or reimbursement shall be in Local Currency. Where the Bank is to make, has made, or may be called upon to make payment of any amount under the Credit in Foreign Currency, the Local Currency equivalent of such Foreign Currency amount shall be determined as of the date on which the Applicant provides the Bank with funds to meet the relevant drawing, in accordance with the Bank's usual practice, and in respect of any prepayment, the Bank may, in its sole discretion, add to the amount otherwise payable by the Applicant, such additional amount as the Bank may determine is necessary to eliminate any risk to it of changes in the rate at which Foreign Currency may be exchanged for Local Currency between the date on which prepayment is demanded and the date on which the relevant Drawing is paid.

- 5. Applicant's Agreement to Indemnify Bank.** The Applicant hereby indemnifies and agrees to hold the Bank harmless from all losses, damages, costs, demands, claims, expenses and other consequences which the Bank may incur, sustain or suffer, other than pursuant to its own negligence or wilful misconduct, as a result of issuing or amending the Credit or enforcing or protecting the provisions hereof, including without limitation legal and other professional expenses reasonably incurred by the Bank and whether incurred in defending any action brought against the Bank to compel payment under the Credit or to restrain the Bank from making payment thereunder in any proceedings brought by or on behalf of the Beneficiary or the Applicant, or in any proceedings brought by the Bank against the Applicant, any guarantor of the Applicant's liabilities to the Bank hereunder or with respect to the Applicant's or any guarantor's property charged or pledged to the Bank for the purpose of protecting, taking possession thereof, holding or realizing thereon, or otherwise in connection herewith.
- 6. Payment of Fees.** The Applicant shall pay the Bank on demand its fees in respect of the Credit or in respect of services in relation to the Credit in such amounts or at such rates as are established and as may be varied from time to time by the Bank and as are set out in the Bank's schedule of charges current at the time of the Bank's demand for its fees or as may be otherwise agreed in writing between the Bank and the Applicant and in such currency as the Bank may determine to be appropriate. Without limiting the generality of the foregoing or of paragraph 5 above, the Applicant further agrees that it will, in addition, prepay or reimburse the Bank on demand, as the Bank may require, for all charges and expenses to be incurred by the Bank or already incurred by it at the time of demand in connection with the Credit including without limitation charges and expenses of other banks or other parties to be paid by the Bank on behalf of the Applicant or which may become owing by the Bank on behalf of the Applicant as a result of any failure by the Beneficiary to pay the charges and expenses of the other banks or other parties.
- 7. Overdue Amounts.** If the Applicant fails to pay when due any amount payable by the Applicant hereunder, then, subject to the provision otherwise of any agreement in writing between the Applicant and the Bank, the Applicant agrees to pay interest on the daily balance of such amount calculated and payable monthly from and including the date when due to but excluding the date of payment in full at the variable nominal rate per annum equal at all times to the Bank's prime rate of interest for loans to customers of the Branch in Local Currency plus 3% per annum. The Bank's prime rate of interest for loans to its customers in a currency is the reference interest rate per annum declared by the Bank from time to time to be its prime or base interest rate for loans to customers of the Branch in that currency.
- 8. Debiting the Applicant's Account.** The Bank may charge all amounts payable to the Bank pursuant to the provisions hereof to any account or accounts the Applicant maintains with the Bank. Where an account is denominated in Foreign Currency, the Bank may charge to the account such amount as will enable the Branch to purchase in accordance with the Branch's usual practice, the Local Currency required to provide for payment of the Bank. Notwithstanding the aforesaid, nothing herein shall oblige the Bank to charge any amount to an account of the Applicant, nor shall the Bank be liable for any appropriation from any account or among accounts that it may make pursuant hereto. The debiting of an amount to the Applicant's account as provided for herein shall constitute the Bank's demand for payment of such amount unless the Bank has otherwise demanded payment in respect thereof.
- 9. Payments Made Other Than In The Required Currency.** The Applicant shall make all payments required of it hereunder or with respect hereto in Local Currency unless otherwise agreed between the Applicant and the Bank. However, if a court or tribunal of competent jurisdiction orders any payment due in Local Currency to be made in any other currency (hereinafter referred to as "judgment currency") then payment shall be made as so ordered provided that if any payment in judgment currency made as aforesaid is insufficient to enable the Bank on the date of its receipt to purchase in accordance with the Branch's usual practice the amount of Local Currency of which the Applicant owed payment to the Bank, then the Applicant shall pay the Bank such additional sum in judgment currency as is necessary to ensure that the amount the Applicant pays the Bank in judgment currency when converted as aforesaid is sufficient to produce the amount of the Applicant's payment obligation denominated in Local Currency. Each amount payable by the Applicant pursuant to this paragraph as an additional sum shall be due to the Bank as a separate debt.
- 10. Bank's Security in Documents.** The Applicant agrees that any and all warehouse receipts, bills of lading, policies or certificates of insurance or other documents referred to in the Credit or relating to the goods described therein (the "Documents") shall be and the same and the proceeds thereof are hereby pledged and assigned to the Bank, subject in the case of assignment of any policy of insurance to any requisite consent of the insurer, as collateral security for the payment of the indebtedness and liability of the Applicant to the Bank arising hereunder or arising out of its issuing the Credit and the Bank may realize upon the Documents in such manner, at such time or times, on such terms and at such price or prices as the Bank may consider advisable. The Applicant agrees to deliver and execute as necessary such financing statements or other documents as the Bank may require in order to effect, perfect, protect or give notice of its security interest in the Documents. Subject to the provisions of applicable law, the Bank may give the Applicant a notice of general intention to realize upon the Documents by way of selling the goods described therein within such time prior to sale as the Bank in its sole discretion considers to be reasonable and such notice shall be sufficient in respect of any sale or sales of the goods or any part thereof the Bank makes after the date of such notice and no other notice of sale need be given at any time by the Bank and the goods or any part thereof may be sold by public auction or private sale or partly by each mode. Without limiting the generality of paragraph 5 hereof, the Applicant shall be liable to the Bank for all expenses reasonably incurred in connection with sale or attempted sale of the goods including expenses of taking possession of goods described in the aforementioned Documents, holding, repairing, processing, preparing for disposition and disposing thereof and legal fees and expenses associated therewith.
- 11. Insurance.** If, in the opinion of the Bank, adequate insurance on the goods described in the Credit is not provided by the Beneficiary, the Applicant shall insure the goods with the loss made payable to the Bank against such risks and with such companies as may be satisfactory to the Bank and shall deliver the relative policies or certificates of insurance to the Branch.
- 12. Responsibility of Bank and Issuance of Credit.** Except as otherwise expressly provided herein the Credit shall be subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce current at the time of issuance of the Credit ("UCP"). Without limitation the Bank shall not be responsible for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any Documents received under the Credit, or for the general or particular conditions stipulated in such Documents or superimposed thereon or for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods represented thereby or for the good faith or acts or omissions, solvency, performance or standing of any consignor, carrier or insurer of such goods or any other person whomsoever. Without limitation the Bank shall not be responsible for the consequences arising out of delay and/or loss in transit of the Credit, any messages, letters or Documents or failure to carry out instructions that the Bank, its agents or correspondents have transmitted, or for delay, mutilation or other errors arising in the transmission of any telecommunication or for errors in translation or interpretation of technical terms. In no event will the Bank be liable for any indirect, special or consequential damages in connection with the Credit requested or issued under this Agreement, even if informed of the possibility of such damages. The Bank reserves the right to use the services of any bank or other financial institution in connection with the Credit requested or issued under this Agreement.

The Bank will not be liable for any act or omission of such bank or other financial institution in the performance of the services required of it. Subject to any instructions set out in the Application, and except in the case of the Bank's delivery of the Credit or any amendment thereto to the Applicant for delivery to the Beneficiary, the Applicant authorizes the Bank to issue or amend the Credit by mail, by teletransmission including facsimile transmission or by courier in accordance with the Bank's usual practice for credits of the type for which the Applicant has applied.

- 13. Rights Conferred On Bank Are Additional.** The rights and powers conferred upon the Bank hereby are in addition and without prejudice to any other rights which the Bank may now or hereafter enjoy and the security provided hereby is in addition to and without prejudice to any security of any kind which the Bank may now or hereafter hold for the account of the Applicant. The Applicant agrees to provide the Bank with such further security as the Bank may require from time to time for the Applicant's obligations hereunder.
- 14. Application and Benefit.** The provisions hereof shall apply to the Credit and any transfer thereof as varied from time to time with the consent of the Applicant and other requisite parties and this Agreement shall be binding upon the Applicant and the Bank and their respective heirs, executors, administrators, successors and assigns.
- 15. Acceptance of Certain Documents.** Notwithstanding any provision in UCP to the contrary, unless the Application hereof expressly provides otherwise, the Bank may accept as complying with the terms of the Credit any Documents or instruments required by the Credit to be completed, signed, presented or delivered by a Beneficiary which has or have been completed, signed, presented or delivered by a receiver, trustee in bankruptcy, assignee for the benefit of creditors, secured party or other like person believed in good faith by the Bank to be lawfully entitled to the property of a Beneficiary in the Credit and the Bank may make payments under the Credit to such person. The provisions of this paragraph 15 are inserted for the sole benefit of the Bank and may not be relied upon by any other person whatsoever.
- 16. Ratification of Bank's Acceptance of Documents.** In the case of variance between Documents or instruments required under the Credit and those presented by a Beneficiary or other person authorized to make presentation thereof, the Applicant shall be deemed to have ratified and confirmed the Bank's acceptance of the Documents or instruments or both so presented as complying with the Credit and to have waived any right to object to variance from the Documents or instruments or both required under the Credit unless immediately upon receipt thereof the Applicant shall have advised the Bank in writing of any variance to which it objects and shall have returned all Documents and instruments received by it under the Credit to the Bank duly endorsed or otherwise transferred to the Bank as the Bank may instruct the Applicant for the Bank's disposition as the Bank may see fit.
- 17. Governmental Requirements.** The Applicant shall comply with any and all domestic and foreign governmental requirements in regard to the Credit and the related shipment of goods, and the Bank is hereby released from all liability or responsibility in connection therewith.
- 18. Force Majeure.** The Bank shall not be liable for any error, failure or delay in performance of the Bank's obligations under this Agreement caused directly or indirectly by a Force Majeure Event.
- 19. No Obligation to Issue Credit.** Nothing herein shall oblige the Bank to issue any credit at the request of the Applicant.
- 20. Facsimile Transmission.** The Applicant consents to communication by facsimile transmission between the Applicant and the Bank or the Service Provider. The Applicant agrees that all communications by facsimile transmission including the acceptance or rejection of discrepancies in documents presented under the Credit, sent, or purported to be sent, by the Applicant or an authorized person on the Applicant's behalf, are valid and binding upon the Applicant. Any information or documents in the facsimile transmission shall be the equivalent of original written paper information or documents and any signatures on such information or documents, shall be the equivalent of written signatures. The Bank may, in its sole discretion, but is not obliged to, rely on, accept or act upon any facsimile transmission which it believes in good faith to be genuine. The Bank may, in its sole discretion, decline to act on any facsimile transmission if it doubts that it has been accurately completed or transmitted by the Applicant or if not properly understood by the Bank.
- 21. Disclosure.** The Applicant authorizes the Bank to disclose to the Service Provider all information which the Bank considers necessary in connection with the issuance, amendment, payment or other matter concerning the Credit.
- 22. Governing Law and Joint Liability.** This Agreement shall be governed by and construed in accordance with the laws of the place where the Branch is situate. If this Agreement is executed by more than one Applicant, the liabilities of the Applicants to the Bank shall be joint and several.
- 23. Language.** The Applicant hereby confirms its express wish that this Agreement and any documents related thereto be drawn up in English only and declares to be satisfied therewith, the whole without prejudice to any such Agreement or document which may from time to time be drawn up in French only or in both French and English. *Le donneur d'ordre confirme sa volonté expresse de voir la présente convention et tous les documents s'y rattachant être rédigés en anglais seulement et s'en déclare satisfait, le tout sans préjudice cependant à tous tels documents qui pourraient de temps à autre être rédigés en français seulement ou à la fois en français et en anglais.*