

# Royal Court of Jersey

## Judicial Hypothecs

### RC18/01

1. This Practice Direction concerns actions for the acknowledgement of a debt by consent under Rule 18/4 of the Royal Court Rules 2004 as amended.
2. An action for the acknowledgement of a debt by consent shall be instituted by the delivery to the Judicial Greffier of an acknowledgement document which must –
  - (a) be in or substantially in the appropriate form set out in Schedule 1 attached to this Practice Direction;
  - (b) be typewritten or printed in either single or 1½ line spacing on paper of A4 size, and shall be set out in such a manner as to leave a clear margin at least 2½ inches in depth at the foot of the paper below the signatures;
  - (c) state the amount to be acknowledged expressed in both words and figures and dates expressed in the form “the 1st January, 20--”; and
  - (d) where the registration of an act in relation to the acknowledgement of a debt is intended by the parties thereto to operate as a hypothec on a specific property, contain a description of the property which must -
    - (i) include details of the title by which the property was acquired by the borrower,
    - (ii) be expressed, wherever practicable, in the form of a street address,
    - (iii) be no longer than is necessary for the purpose of identifying the property,but which should not include any description of boundaries or abutments (other than the name of the road which the property borders or from which access is gained to it) except where necessary for the purpose of demarcating the property to be hypothecated from other property belonging to the borrower.

Amended this the 3<sup>rd</sup> day of September, 2018.

**SCHEDULE 1**

**FORMS OF ACKNOWLEDGEMENT OF DEBT (“RECONNAISSANCES”)**

**Form of simple acknowledgement of debt**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The            day of                    , 20

BETWEEN A.B. and C.D., defendants; and E.F., plaintiff; actioning the defendants to acknowledge their indebtedness in a bond/note of hand, in the capital sum of ..... [bearing interest], subscribed by them [jointly and severally] in favour of the plaintiff on the .....(date), [the said registration to operate as a hypothec only on the property ....., in the parish of ....., to which the defendants are entitled by [insert details of title] registered on the .....

The defendants, (by their signatures/by the signature of their advocate/solicitor/attorney) hereto, acknowledge their indebtedness to the plaintiff in the said sum [and consent to the immediate registration of this acknowledgement in the Public Registry].

The plaintiff/plaintiff's (advocate/solicitor), by his/her signature hereto, requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

*(Initials of law firm)*

N.B. With regard to any of the above forms in the event of a company being a defendant where necessary the words ‘by his/her/their signature(s) hereto’ shall be replaced by ‘by the signature of its authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories’.

**Form of acknowledgement where the debt is guaranteed by a third party**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The        day of        , 20

BETWEEN A.B. (hereinafter called “the first defendant”) and C.D. (hereinafter called “the second defendant”), OF THE ONE PART; AND E.F. (hereinafter called “the plaintiff”), OF THE OTHER PART; actioning the defendants as follows:– (1) the first defendant to acknowledge his indebtedness in a bond/note of hand in the capital sum of ..... [bearing interest] subscribed by him in favour of the plaintiff on the ..... (date), [the said registration to operate as a hypothec only on the property ....., in the parish of ....., to which the first defendant is entitled by [insert details of title] registered on the .....]; and (2) the second defendant to acknowledge his guarantee to the said bond/note of hand [the said registration to operate as a hypothec only on the property ....., in the parish of ....., to which the second defendant is entitled by [insert details of title] registered on the .....].

(By their signatures/by the signatures of their advocates/solicitors/attornies) hereto, (1) the first defendant acknowledges his indebtedness to the plaintiff in the said sum, and (2) the second defendant acknowledges his indebtedness as guarantor in the said sum, [and the defendants consent to the immediate registration of this acknowledgement in the Public Registry].

The plaintiff/plaintiff's (advocate/solicitor), by his/her signature hereto, hereby requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

*(Initials of law firm)*

N.B. With regard to any of the above forms in the event of a company being a defendant where necessary the words ‘by his/her/their signature(s) hereto’ shall be replaced by ‘by the signature of its authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories’.

**Form of acknowledgement of guarantee only**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The        day of                    , 20

BETWEEN A.B., defendant; and C.D., plaintiff; actioning the defendant to acknowledge his guarantee to a bond/note of hand in the capital sum of .....[bearing interest] subscribed by E.F. in favour of the plaintiff on the .....(date), (or his guarantee dated the ..... in the capital sum of ..... to the indebtedness of E.F. to the plaintiff,); [the said registration to operate as a hypothec only on the property ....., in the parish of ....., to which the defendant is entitled by [insert details of title] registered on the .....].

The defendant, (by his signature/by the signature of his advocate/solicitor/attorney) hereto, acknowledges his indebtedness as guarantor in the said sum [and consents to the immediate registration of this acknowledgement in the Public Registry].

The plaintiff/plaintiff's (advocate/solicitor) by his/her signature hereto, hereby requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

*(Initials of law firm)*

N.B. With regard to any of the above forms in the event of a company being a defendant where necessary the words 'by his/her/their signature(s) hereto' shall be replaced by 'by the signature of its authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories'.

**Form of acknowledgement where a third party makes a declaration with regard to dower, life-enjoyment, etc.**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The            day of                            , 20

BETWEEN A.B. (hereinafter called “the first defendant”) and C.D. (hereinafter called “the second defendant”), OF THE ONE PART; and E.F. (hereinafter called “the plaintiff”), OF THE OTHER PART; actioning the defendants as follows:– (1) the first defendant to acknowledge his indebtedness in a bond/note of hand in the capital sum of .....[bearing interest] subscribed by him in favour of the plaintiff on the ..... (date), [the said registration to operate as a hypothec only on the property ....., in the parish of ....., to which the first defendant is entitled by [insert details of title] registered on the .....]; and (2) the second defendant to declare [insert appropriate declaration].

(By their signatures/by the signatures of their advocates/solicitors/attornies) hereto, (1) the first defendant acknowledges his indebtedness to the plaintiff in the said sum [and consents to the immediate registration of this acknowledgement in the Public Registry]; and (2) the second defendant gives the aforesaid undertaking.

The plaintiff/plaintiff's (advocate/solicitor), by his/her signature hereto, hereby requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

*(Initials of law firm)*

N.B. With regard to any of the above forms in the event of a company being a defendant where necessary the words ‘by his/her/their signature(s) hereto’ shall be replaced by ‘by the signature of its authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories’.

**Form of acknowledgement where a third party makes a declaration with regard to existing hypothecary rights**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The        day of                    , 20

BETWEEN A.B. (hereinafter called ‘the first defendant’) and C.D. (hereinafter called ‘the second defendant’), OF THE ONE PART; and E.F. (hereinafter called ‘the plaintiff’), OF THE OTHER PART; actioning the defendants as follows- (1) the first defendant to acknowledge his/her indebtedness in a bond/note of hand in the capital sum of ..... [bearing interest] subscribed by him/her in favour of the plaintiff on the .....(date), [the said registration to operate as a hypothec only on the property ....., in the parish of ....., to which the first defendant is entitled by [insert details of title] registered on the .....]; and (2) the second defendant to declare [insert appropriate declaration].

The first defendant, (by his/her signature/by the signature of his/her advocate/solicitor/attorney) hereto, acknowledges his/her indebtedness to the plaintiff in the said sum and consents to the immediate registration of this acknowledgement as aforesaid; and the second defendant, (by his/her signature/by the signature of his/her advocate/solicitor/attorney) gives the aforesaid undertaking.

The plaintiff/plaintiff's (advocate/solicitor), by his/her signature hereto, hereby requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

*(Initials of law firm)*

N.B. With regard to any of the above forms in the event of a company being a defendant where necessary the words ‘by his/her/their signature(s) hereto’ shall be replaced by ‘by the signature of its authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories’.

**Form of acknowledgement referring to the value or a percentage of the value**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The        day of                    , 20

BETWEEN A.B. and C.D., defendants; and E.F., plaintiff; actioning the defendants to acknowledge their indebtedness pursuant to [describe the agreement] dated the ..... (date) which indebtedness shall operate as a hypothec [on the whole of the value from time to time] or [on ....percent of the value from time to time] of [the whole of the immovable property of the defendants] or only on the property ....., in the parish of ....., to which the defendants are entitled by [insert details of title] registered on the .....

The defendants, (by their signatures/by the signature of their advocate/solicitor/attorney) hereto, acknowledge their indebtedness to the plaintiff and that such indebtedness shall operate as a hypothec as described above [and consent to the immediate registration of this acknowledgement in the Public Registry].

The plaintiff/plaintiff's (advocate/solicitor), by his/her signature hereto, requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

*(Initials of law firm)*

N.B. With regard to any of the above forms in the event of a company being a defendant where necessary the words 'by his/her/their signature(s) hereto' shall be replaced by 'by the signature of its authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories'.