

COMMERCIAL PURCHASE CONTRACT

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PART A – OFFER TO PURCHASE

This Contract is between

THE SELLER

and

THE BUYER

Name _____ Name _____

Name _____ Name _____

1. THE PROPERTY

1.1 The Property is the Land, Buildings, Accepted Tenancies, Attached Goods (unless excluded) and included Unattached Goods located at:

Municipal Address: _____

Legal Description: Plan _____ Block/Unit _____ Lot _____

Title(s) # _____. A copy of the existing Title(s) attached hereto as Schedule "A".
If Condominium Property, legal description and details as described in Commercial Condominium Property Schedule (attached).

1.2 All Attached Goods (fixtures) except for: _____

1.3 No Unattached Goods (specific chattels) except for: _____

1.4 Title to the Property shall be subject to any reservations and exceptions stated on the Certificate of Title, non-financial obligations now on title such as easements, utility rights-of-way, covenants and conditions normally found registered against property of this nature, and non-financial encumbrances that have been accepted by the Buyer (the "Permitted Encumbrances"). Unless otherwise agreed in writing, the Title shall be free and clear of all other liens, encumbrances, registrations and obligations except those implied by law.

The Buyer agrees to accept the following Permitted Encumbrances: _____

The Buyer agrees to accept the following tenancies (the "Accepted Tenancies"): _____

2. THE TRANSACTION

- 2.1 The Buyer and the Seller agree to act cooperatively, reasonably and in good faith.
- 2.2 The Buyer hereby offers to purchase the Property for the Purchase Price specified and allocated below:
- \$ _____ Initial Deposit
- \$ _____ Additional Deposit
- \$ _____
- \$ _____ New Financing
- \$ _____ Seller Financing (as per attached Financing Schedule)
- \$ _____ Other Value
- \$ _____
- \$ _____ Balance Owing
- \$ _____ **Purchase Price (plus GST, if applicable)**
- 2.3 **The Purchase Price does not include GST.** In the event that GST is payable and the Buyer is not a GST registrant, then the Buyer shall remit the applicable GST to the Seller's lawyer on or before Completion Day.
- 2.4 Other than the Deposits, the Buyer shall pay the Purchase Price by lawyer's trust cheque, bank draft or other agreed value.

3. DEPOSITS

- 3.1 All Deposits shall be delivered in trust to _____.
- Unless otherwise agreed in writing, the Initial Deposit shall accompany the offer. _____
- 3.2 The Initial Deposit shall be deposited no later than the third Business Day following the day that Final Signing occurred (as per clause 17.1) or the third Business Day following the receipt of the Initial Deposit, whichever is last.
- 3.3 Any Additional Deposits shall be delivered in trust as follows _____.
- Additional Deposits shall be deposited no later than the third Business Day following the day the Additional Deposit is received.
- 3.4 In the event that either Deposit(s) are undelivered or returned by the financial institution as funds not cleared or non-sufficient funds, then the Buyer must replace the Deposit(s) by money order, bank draft or lawyer's trust cheque within two (2) Business Days of being notified that the Deposits did not clear. If the Buyer fails to provide the Deposit(s), the Seller may, at its discretion, terminate the Contract by notice in writing to the Buyer within two (2) Business Days.
- 3.5 Unless otherwise agreed in writing, no interest on the Deposits shall be paid to the Seller or the Buyer. _____
- 3.6 The Deposits shall be held in trust for both the Seller and the Buyer and shall be:
- (a) applied against the Commission and paid directly out of trust to the brokerage(s) when the Commission is earned in accordance with the terms of the Seller Brokerage Agreement or other commission agreement signed by the Seller;
 - (b) returned forthwith to the Buyer if this offer is not accepted and the cheque has not been deposited;
 - (c) refunded forthwith to the Buyer if this offer is not accepted and the Buyer's cheque has cleared the brokerage's trust account;
 - (d) refunded forthwith to the Buyer upon the Buyer's cheque clearing the brokerage's trust account if a condition is not satisfied or waived (as per Section 8) or the Seller fails to perform on this Contract; and
 - (e) forfeited to the Seller if this offer is accepted and all conditions are satisfied or waived and the Buyer fails to perform on this Contract.
- 3.7 The brokerage holding the Deposits is further directed and authorized to pay that portion of the Deposits exceeding the Commission in trust to the Seller's lawyer no later than two (2) Business Days prior to the Completion Day.

- 3.8** If there is a dispute between the Seller and the Buyer as to entitlement to the Deposits then:
- (a) the brokerage holding the Deposits shall review the circumstances, determine entitlement and pay the money to the party who is entitled to the Deposits;
 - (b) if no reasonable conclusion can be made in regard to (a) above, the brokerage shall notify the parties to the Contract in writing and shall pay the money into a lawyer's trust account;
 - (c) the parties agree to allow the lawyer and/or the brokerage to deduct from the Deposits a reasonable fee and costs incurred for dealing with the Deposits;
 - (d) a brokerage and/or lawyer acting in good faith under this clause shall not be liable to either party for any damages associated with the handling of the Deposits except as arising from the negligence of the brokerage or lawyer.
- 3.9** In the event that the brokerage holding the trust funds ceases to be licensed in real estate, the Buyer and the Seller agree to allow the trust funds to be transferred to the brokerage representing the other party.

4. CLOSING

- 4.1** Subject to compliance with the terms hereof, possession of the Property shall be available and given to the Buyer on or before 12 noon on the _____ day of _____, (the "Completion Day"), subject to the rights of the Accepted Tenancies, if any.
When the Buyer obtains possession, the Property will be in substantially the same condition as it was in when this Contract was accepted.
- 4.2** All normal adjustments for the Property including but not limited to taxes, local improvement levy and assessments, municipal charges, rents, utilities, tenant deposits including interest, prepaid rent, mortgage principal and interest that are applicable with respect to the Property shall be adjusted as of 24:00 hours on the Completion Day. The Buyer shall assume all local improvements, assessments and charges against the Property as of that time.
- 4.3** Closing documents shall:
- (a) consist of the transfer of land (the "Transfer") in registerable form together with all applicable conveyancing documents normally expected in a commercial transaction of this nature;
 - (b) include estoppel certificates for each of the Accepted Tenancies (if applicable); and
 - (c) be prepared at the expense of the Seller and delivered to the Buyer's lawyer within a reasonable time to confirm registration prior to the Completion Day.
- 4.4** In the event the Seller fails to deliver the Transfer to the Buyer's lawyer within such reasonable time, then the Buyer shall not be obliged to pay interest on that portion of the cash to close attributable to the Buyer's own funds, excluding mortgages, provided that those funds are paid to Seller's lawyer in trust, until the Buyer has a reasonable time in which to register the Transfer.
- 4.5** The Seller's lawyer may use the Purchase Price to pay out all mortgages, condominium contributions, registrations and other financial obligations that are the Seller's obligation to pay or discharge. Within a reasonable period of time after the Completion Day, the Seller's lawyer will provide the Buyer's lawyer with evidence of all discharges including, where required, a certified copy of the certificate of title and an estoppel certificate evidencing the payment of all condominium contributions that are the Seller's obligation to pay.
- 4.6** All money due and owing to the Seller including GST, if applicable, shall be paid to the Seller's lawyer on or before the Completion Day. If the Seller agrees to accept payment after the Completion Day, the Buyer shall pay interest at a rate of 3% per annum above the prime rate set by the Alberta Treasury Branch on all monies owing to the Seller, from the Completion Day to and including the date that the monies owing have been unconditionally paid. Payment received after noon on any day will be payment as of the next Business Day.
- 4.7** If a new mortgage is a condition of this Contract, the Seller agrees to trust conditions that allow the Buyer's lawyer to register the Transfer so as to obtain the advance of mortgage funds on the new mortgage, provided however that the Buyer's lawyer undertakes, accepts, and complies with reasonable trust conditions imposed by the Seller's lawyer until the Seller has been paid the total Purchase Price.
- 4.8** The Seller's lawyer has a right to prepare (at the expense of the Buyer) any mortgage or agreement for sale between the Seller and the Buyer.

5. INSURANCE

- 5.1** The risk of loss or damage to the Property will lie with the Seller until the Purchase Price is paid according to the terms of this Contract. If loss or damage to the Property occurs before the Seller is paid the Purchase Price, then any insurance proceeds shall be held in trust for the Buyer and the Seller according to their interests in the Property.

6. REPRESENTATIONS AND WARRANTIES

- 6.1 The Seller represents and warrants to the Buyer that:
- (a) the current use of the Land and Buildings complies with the existing municipal land use bylaw;
 - (b) the Buildings and other improvements on the Land are not placed partly or wholly on any easement or utility right-of-way and are entirely on the Land and do not encroach upon neighbouring lands, except where an encroachment agreement is registered on title, or in the case of an encroachment into municipal lands or a right-of-way, the municipality has endorsed encroachment approval directly on the real property report;
 - (c) the location of Buildings and other improvements on the Land complies with all relevant municipal bylaws, regulations or relaxations granted by the appropriate municipality prior to the Possession Date, or the Buildings and other improvements on the Land are “non-conforming buildings” as that term is defined in the *Municipal Government Act* (Alberta);
 - (d) the current use of the Land and Buildings and the location of the Buildings and other improvements on the Land comply with any restrictive covenant on title;
 - (e) to the best of the Seller’s knowledge, there is no legal action outstanding with respect to the Property;
 - (f) the Seller is not in breach of any contract with respect to the Property;
 - (g) the Seller is not in breach of any obligation to any third party with respect to the Property;
 - (h) within the meaning of the *Income Tax Act* (Canada), the Seller is not now nor will be on the Completion Day a non-resident of Canada nor an agent or a trustee for any person with an interest in the Property who is a non-resident of Canada;
 - (i) \$ _____ is the current monthly condominium contribution payable (fee for administrative and other expenses); and
 - (j) except as otherwise disclosed, the Seller is not aware of any defects that are not visible and that may render the Property dangerous or potentially dangerous to occupants or unfit for habitation.
- 6.2 All of the warranties contained in this Contract and any attached Schedules are made as of and will be true at the Completion Day, unless otherwise agreed in writing.
- 6.3 The Seller and the Buyer each acknowledge that, except as otherwise described in this Contract, there are **no other warranties, representations or collateral agreements** made by or with the other party, the Seller’s brokerage and the Buyer’s brokerage about the Property, any neighbouring lands, and this transaction, including any warranty, representation or collateral agreement relating to the size/measurements of the Land and Buildings or the existence or non-existence of any environmental condition or problem.
- 6.4 The representations and warranties in this Contract may be enforced after the Completion Day, provided that any legal action is commenced within the time limits prescribed by the *Limitations Act* (Alberta).
- 6.5 The Buyer shall have the right to register a **caveat** against the title to the Property upon the acceptance of this offer by the Seller. Should the Buyer fail to perform this Contract, it agrees to forthwith discharge that caveat.

7. ADDITIONAL TERMS

- 7.1 All time periods, deadlines and dates in this Contract shall be strictly followed and enforced. All times will be Alberta time unless otherwise stated.
- 7.2 Neither the Buyer or the Seller shall assign its interest in the Property without the written approval of the other, such approval not to be unreasonably withheld.
- 7.3 All changes of number and gender shall be made where required.
- 7.4 This Contract will be governed by the laws of the Province of Alberta. The parties submit to the exclusive jurisdiction of the Courts in the Province of Alberta for any dispute that may arise out of this transaction.
- 7.5 The following terms are a part of this Contract: _____
- _____
- _____
- _____
- _____

8. CONDITIONS

8.1 The Buyer's Conditions are:

(a) Financing Condition

It is a condition precedent of this offer that the Buyer, as per clause 2.2, is able to place a new mortgage(s) upon terms acceptable to the Buyer. The Buyer shall have the opportunity to obtain such financing until

Before **5 p.m.** on _____, 20_____, (the "Condition Day").

(b) Due Diligence Condition

(i) Within three (3) Business Days of the Final Signing of this Contract, as per clause 17.1, the Seller will provide to the Buyer true copies of all agreements/documents/materials that reasonably relate to the property and to the Buyer's Conditions and which are in the possession of the Seller or under its control (the "Documents"). The Documents will include: any Permitted Encumbrances; Accepted Tenancies; financial records and statements respecting the Property and any operating agreements that the Buyer is to assume; all engineering, mechanical, electrical, plumbing, roof, heating, ventilation, construction or similar reports, assessments, plans, drawing, specifications, relevant correspondence or work orders; environmental reports; and _____

(ii) The Buyer may also, at its expense, retain consultants to conduct searches and such inspections, reviews and tests and to produce such observations, reports or assessments regarding the Property as it deems necessary, and for these purposes the Buyer and its authorized representatives, acting reasonably, will have access to the Property after Final Signing and during normal business hours. The rights of the existing tenants must be respected and the Buyer will be responsible for all damages caused by its representatives. The Seller will provide the Buyer with such written authorizations and other assistance when reasonably required by the Buyer to facilitate its inspections, reviews or tests.

It is a condition precedent of this offer that the information be satisfactory to the Buyer.

Before **5 p.m.** on _____, 20_____, (the "Condition Day").

The Buyer shall keep all information obtained in strict confidence and shall only make the information available to the Buyer's employees, agents and professional advisors in strict confidence and shall return all of the above materials including all copies to the Seller before any Deposits are released to the Buyer pursuant to this Contract.

(c) Condominium Documents Condition

This Contract is subject to the Buyer's Condition regarding Condominium Documents as per attached Commercial Condominium Property Schedule. Yes No

Before **5 p.m.** on _____, 20_____, (the "Condition Day").

(d) Additional Buyer's Conditions

Before **5 p.m.** on _____, 20_____, (the "Condition Day").

8.2 The Seller's Conditions are: _____

Before **5 p.m.** on _____, 20_____, (the "Condition Day").

8.3 Unless otherwise agreed in writing, the Buyer's Conditions are for the sole benefit of the Buyer and the Seller's Conditions are for the sole benefit of the Seller. The Buyer and Seller must use reasonable efforts to satisfy their respective Conditions.

8.4 The Buyer and the Seller may unilaterally waive or acknowledge satisfaction of their Conditions by giving a written notice to the other party on or before the stated Condition Day. If that notice is not given, then this Contract is ended immediately following that Condition Day and the Deposit(s) plus any earned interest will be returned to the Buyer and all agreements, documents, materials and written information exchanged between the parties will be returned to the Buyer and Seller respectively.

8.5 Subject to clause 8.3, the Buyer and the Seller may give written notice to the other party on or before the stated Condition Day advising that a Condition will not be waived, has not been satisfied and will not be satisfied on or before the Condition Day. If that notice is given, then this Contract is ended upon the giving of that notice.

9. ATTACHED SCHEDULES

9.1 The following Schedules form part of this Contract and are attached:

- | | | |
|--|---|--|
| <input type="checkbox"/> Schedule A (copy of Title) | <input type="checkbox"/> Schedule B (other documents) | <input type="checkbox"/> Financing Schedule |
| <input type="checkbox"/> Commercial Condominium Property Schedule | <input type="checkbox"/> Addendum | <input type="checkbox"/> Seller Financing |
| <input type="checkbox"/> Assumption of Mortgage/Agreement for Sale | <input type="checkbox"/> Other Value | <input type="checkbox"/> Other Schedules _____ |

10. REMEDIES/DISPUTES

10.1 If the Seller or the Buyer fails or refuses to complete the Contract according to its terms, then the other party may pursue all available remedies. The Seller's remedies include keeping the Deposits and claiming additional damages. Both the Seller and the Buyer can claim reasonable costs including legal fees and disbursements on a solicitor/client full indemnity basis.

11. SECURITY FOR BROKERAGE REMUNERATION

11.1 The Seller does hereby irrevocably assign to the Seller's brokerage enough of the Purchase Price to pay all sums due and owing to the Seller's brokerage, and agrees to pay any unpaid balance of the Commission to the Seller's brokerage.

12. ADVICE

- 12.1** This Contract is intended to create binding legal obligations. The Seller and the Buyer should read this Contract carefully and are encouraged to obtain legal advice before signing.
- 12.2** This Contract may be signed and sent by fax or by email and these procedures will be as effective as signing and delivering an original copy.
- 12.3** Unless there is a written agreement for alternate representation, the Seller's brokerage (including its broker, all associate brokers and associates) represents the Seller as Seller's Agent and does not have a fiduciary relationship with the Buyer, and the Buyer's brokerage (including its broker, all associate brokers and associates) represents the Buyer as Buyer's Agent and does not have a fiduciary relationship with the Seller.
- 12.4** The Buyer and Seller agree that the sale and other related information regarding this transaction may be retained and disclosed by the brokerage and/or its real estate board(s) as required for closing and for reporting, appraisal and statistical purposes.

13. DEFINITIONS

13.1 In this Contract:

- (a) *Business Day* means every day but Saturday, Sunday and statutory holidays.
- (b) *Commission* means the sum owing from the Seller for services rendered under the Seller Brokerage Agreement plus GST.
- (c) *Seller Brokerage Agreement* means any written service or commission agreement obligating the Seller to pay remuneration.
- (d) *Notice* means any notice referred to in this Contract and includes communication of the acceptance of an offer to purchase.
- (e) *Unless otherwise agreed in writing* means either changes made to the terms of this Contract that are agreed to by both the Seller and the Buyer, or a written agreement by letter or otherwise between the Seller or the Seller's lawyer and the Buyer or the Buyer's lawyer.

14. REPRESENTATIVES/NOTICE/COMMUNICATION

Note: This section must be filled out in full.

- 14.1** As long as the Representative information in 14.3 is completed, the identified Representatives are authorized to send and receive any Notices, documents and information on behalf of their respective clients in person, by fax, or by email. Buyer and Seller acknowledge there are risks with each of these methods.
- 14.2** Buyer and Seller agree that any Notices, documents and information exchanged between the parties in person, by fax, or by email will be considered effective at the time they are sent.
- 14.3** The following addresses must be used for all communication between Buyer, Seller and their Representatives, unless otherwise stated. If the information changes, Buyer and Seller must tell each other, in writing, through their Representatives, within two Business Days of the change.

Designated Address for Communication:

The Buyer acknowledges that the following is the designated address for communication for all buyers.

Name _____

Address _____ (postal code)

Phone _____ Fax _____

Email _____

Buyer Brokerage Information:

BROKERAGE:	BROKERAGE REPRESENTATIVE:
Name _____	Name _____
Address _____ _____ (postal code)	Address: c/o the Brokerage
Phone _____ Fax _____	Phone _____ Fax _____
Email _____	Email _____

The Seller acknowledges that the following is the designated address for communication for all sellers.

Name _____

Address _____ (postal code)

Phone _____ Fax _____

Email _____

Seller Brokerage Information:

BROKERAGE:	BROKERAGE REPRESENTATIVE:
Name _____	Name _____
Address _____ _____ (postal code)	Address: c/o the Brokerage
Phone _____ Fax _____	Phone _____ Fax _____
Email _____	Email _____

15. OFFER

15.1 Buyer and Seller agree that an electronic signature, as defined in the *Electronic Transactions Act* (Alberta), or a digitized signature will have the same function as an ink signature.

15.2 The Buyer offers to buy the Property for the Purchase Price according to the terms of this Contract.

15.3 This offer/counter offer shall be open for acceptance in writing until _____m. on _____
_____, 20_____.

SIGNED AND DATED at _____, Alberta at _____m. on _____, 20_____.

Name of Buyer (print)

Per: _____

Authorized Signing Officer(s)

Witness

Print Name of Authorized Signing Officer(s)

Print Name of Witness

Per: _____

Authorized Signing Officer(s)

Witness

Print Name of Authorized Signing Officer(s)

Print Name of Witness

Buyer's GST # _____

PART B – ACCEPTANCE

16. ACCEPTANCE

16.1 The Seller accepts the Buyer's offer and agrees to sell the Property for the Purchase Price according to the terms of this Contract.

SIGNED AND DATED at _____, Alberta at _____m. on _____, 20_____.

Name of Seller (print)

Per: _____

Authorized Signing Officer(s)

Witness

Print Name of Authorized Signing Officer(s)

Print Name of Witness

Per: _____

Authorized Signing Officer(s)

Witness

Print Name of Authorized Signing Officer(s)

Print Name of Witness

Seller's GST # _____

17. FINAL SIGNING

17.1 Final Signing of this Contract occurred at _____m. on _____, 20_____.

Initials of the person(s) who signed last _____

CONVEYANCING

BUYER:

Name _____ Name _____
Address _____ Address _____

Phone _____ Fax _____ (postal code) Phone _____ Fax _____ (postal code)
Email _____ Email _____

BROKERAGE:

Name _____
Address _____

Phone _____ Fax _____ (postal code)
Email _____

BROKERAGE REPRESENTATIVE:

Name _____
Address: c/o the Brokerage
Phone _____ Fax _____
Email _____

LAWYER:

Name _____
Address _____

Phone _____ Fax _____ (postal code)
Email _____

SELLER:

Name _____ Name _____
Address _____ Address _____

Phone _____ Fax _____ (postal code) Phone _____ Fax _____ (postal code)
Email _____ Email _____

BROKERAGE:

Name _____
Address _____

Phone _____ Fax _____ (postal code)
Email _____

BROKERAGE REPRESENTATIVE:

Name _____
Address: c/o the Brokerage
Phone _____ Fax _____
Email _____

LAWYER:

Name _____
Address _____

Phone _____ Fax _____ (postal code)
Email _____