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Agreement of Purchase and Sale Commercial

Form 500

for use in the Province of Ontario

GENERAL USE: The Agreement of Purchase and Sale is the document that is used to state the Buyer's desire to purchase the property, and to negotiate the terms of the sale. It is often referred to as an "Offer". This document also allows the Buyer an opportunity to set out in detail all of the terms and conditions they wish to be part of their Offer when buying the Seller's property. Some common examples of a Buyer's conditions include arranging financing (a mortgage) for the property to be purchased, completing a building inspection, arranging for fire insurance or ensuring that the sale of their current property is completed before purchasing a new one. After the Offer is prepared and signed by the Buyer, it is presented to the Seller for acceptance. The Seller, in turn, may want to make changes to the Offer for the Buyer to consider. This process can continue back and forth several times in an effort to reach an agreement.

This line below states the date that the document is created. This date is used to identify this Offer.

This Agreement of Purchase and Sale dated this day of, 20.....

BUYER, (Full legal names of all Buyers), agrees to purchase from

SELLER, (Full legal names of all Sellers), the following

REAL PROPERTY:

Address

fronting on the side of

in the

and having a frontage of more or less by a depth of more or less

and legally described as

..... (the "property")
(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: Dollars (CDN\$)

..... Dollars

DEPOSIT: A Buyer typically submits a deposit on the purchase of the property. It demonstrates the Buyer's sincerity and good faith in the purchase transaction. The timing of delivering the deposit can vary at the discretion of the Buyer to be accepted by the Seller.

DEPOSIT: Buyer submits (Herewith/Upon Acceptance/as otherwise described in this Agreement)

..... Dollars (CDN\$)

by negotiable cheque payable to..... "Deposit Holder"

to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A **attached hereto form(s) part of this Agreement.**

1. **IRREVOCABLE:** *The party submitting the Offer to the other side agrees to allow the other side until that deadline to accept the Offer. The submitting party is not permitted to withdraw their Offer prior to that time. The seal beside their signature shows that the submitting party has received something of value for this irrevocable Offer.*

1. **IRREVOCABILITY:** This offer shall be irrevocable by (Seller/Buyer) until a.m./p.m. on the day of, 20....., after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. **COMPLETION DATE:** *This is the date that the transaction is scheduled to be completed. Unless there is a provision elsewhere in the Agreement, the property is to be vacant. This date is not to be on a weekend or a statutory holiday.*

2. **COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the day of, 20..... Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S): 

INITIALS OF SELLERS(S): 

3. *NOTICES: Under the Agreement there will be requirements to deliver notices to the other side. This provision highlights various methods that would be available to deliver these notices.*

3. **NOTICES:** The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.:
(For delivery of Documents to Seller)

FAX No.:
(For delivery of Documents to Buyer)

Email Address:
(For delivery of Documents to Seller)

Email Address:
(For delivery of Documents to Buyer)

4. *CHATELS INCLUDED: In this section of the Agreement, the Buyer would list the items that the Buyer wished to include in the purchase price. Subject to the Seller's agreement, these might include equipment, and other items that were not attached. To avoid disputes later the items should be described in detail. The rule to follow is "when in doubt, spell it out".*

4. **CHATELS INCLUDED:**
.....
.....
.....

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

5. *FIXTURES EXCLUDED: If the Seller wished to remove an item that had been attached to the building, such as a trade fixtures, this would have to be detailed here.*

5. **FIXTURES EXCLUDED:**
.....
.....
.....

6. *RENTAL ITEMS: This has become an important issue in recent times. There are a number of items that potentially are not owned by the Seller but rather leased or rented. The Seller would have to identify these to a Buyer. One important one these days is the "hot water tank". These may be rented or more frequently now, on a contract for "lease to own".*

6. **RENTAL ITEMS (Including Lease, Lease to Own):** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:

.....
.....
.....
.....

The Buyer agrees to co-operate and execute such documentation as may be required to facilitate such assumption.

INITIALS OF BUYER(S): 

INITIALS OF SELLERS(S): 

7. *HST: This section indicates how the Harmonized Sales Tax will impact the sale price.*
7. **HST: If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be in addition to the Purchase Price.** The Seller will not collect HST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Excise Tax Act ("ETA"), together with a copy of the Buyer's ETA registration, a warranty that the Buyer shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Seller in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing, that the transaction is not subject to HST. Any HST on chattels, If applicable, is not included in the Purchase Price.
8. *TITLE SEARCH: There are a number of searches that a lawyer may undertake when working on a real estate purchase. This paragraph sets out the times for those searches to be done. These searches may include the title search or work orders among others.*
8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the day of....., 20....., (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the property, that its present use (.....) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
9. *FUTURE USE: This sets out that the Buyer is entitled to get what the Agreement provides when it comes to the use of the property. If the Buyer intends on turning the property into a commercial use in the future there are no assurances that the Buyer will be able to do so in the future.*
9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
10. *TITLE: This paragraph sets out the Buyer is entitled to good title subject to a number of items. These items include having the title subject to minor utility easements for gas, water hydro and so on. The Buyer will also have to accept restrictive covenants provided they are complied with.*
10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
11. *CLOSING ARRANGMENTS: Most transactions in Ontario are completed electronically. The following paragraph sets out how this is to be accomplished.*
11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.

INITIALS OF BUYER(S):

INITIALS OF SELLERS(S):

12. **DOCUMENTS AND DISCHARGE:** *The Seller is to deliver to the Buyer those documents in the Seller's possession respecting the property. These would include copies of Surveys and deeds. In the event that there is a mortgage on the title and it is with a chartered bank, trust company, insurance company, credit union or Caisse Populaire, it will most likely not be discharged on or before closing. This paragraph details how this discharge will come about. All other mortgages will have to be discharged by closing.*
12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
13. **INSPECTIONS:** *This provision sets up that the Buyer has had the opportunity to personally inspect the property. Further the Buyer acknowledges the importance of a property inspection report and agrees that if there is not some other provision with respect to this type of report then the Buyer is not going to get an inspection report.*
13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller.
14. **INSURANCE:** *The Seller is responsible for the property until closing. The Seller is to maintain any insurance policies until completion. In the event the property suffers substantial damage prior to closing, the Buyer can cancel the Agreement or can close and get the proceeds of any insurance.*
14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **PLANNING ACT:** *This clause makes the entire agreement subject to compliance with the Planning Act. The Planning Act governs things such as severance.*
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** *The deed is prepared (except for the Land Transfer Tax affidavit) at the expense of the Seller and any mortgage to be given back at the expense of the Buyer.*
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O.1990.
17. **RESIDENCY:** *The Income Tax Act has sections in it to address a non-resident Seller selling property. To ensure the appropriate taxes get paid, this paragraph discusses what the options are in a real estate transaction.*
17. **RESIDENCY:** (a) Subject to (b) below, the Seller represents and warrants that the Seller is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Seller shall deliver to the Buyer a statutory declaration that Seller is not then a non-resident of Canada;
(b) provided that if the Seller is a non-resident under the non-residency provisions of the Income Tax Act, the Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate.
18. **ADJUSTMENTS:** *In a real estate transaction there will be adjustments such as prorating the property taxes. This clause lists the usual adjustments and provides that the Buyer will be responsible for the day of closing.*
18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

19. **TIME LIMITS:** *Dates and times are important and must be adhered to.*

19. TIME LIMITS: Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.

20. **PROPERTY ASSESSMENT:** *The property may be re-evaluated on an annual basis. The Buyer and Seller agree not to hold the real estate sales people responsible when a change takes place.*

20. PROPERTY ASSESSMENT: The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.

21. **TENDER:** *Each side must be able to demonstrate that they are ready willing and able to complete the transaction. For the Buyer generally, they must be able to produce the money to close and for the Seller it is generally the Deed and keys.*

21. TENDER: Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Large Value Transfer System.

22. **FAMILY LAW ACT:** *The Seller is warranting that they have complied with the Family Law Act insofar as it relates to spousal requirements and that no spouse has a claim to the property other than a spouse who has signed a consent in the area set aside for that signature.*

22. FAMILY LAW ACT: Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O.1990 unless the spouse of the Seller has executed the consent hereinafter provided.

23. **UFFI:** *The Seller is warranting that they did not install any Urea Formaldehyde Foam Insulation and to the best of their knowledge there is none in the buildings.*

23. UFFI: Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.

24. **LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** *This clause states that no information the Buyer and Seller have been given by the real estate sales people shall be considered to be Legal, Accounting or Environmental Advice. If these factors impact the transaction or valuation, the Buyers and Sellers should seek independent professional expert advice.*

24. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE: The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.

25. **CONSUMER REPORTS:** *The following paragraph notifies the Buyer that a personal or credit check may be obtained and referred to.*

25. CONSUMER REPORTS: The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.

26. **AGREEMENT IN WRITING:** *If there is a conflict or discrepancy between any of the pre-set (preprinted) clauses and anything that has been added to the Agreement, then added parts supercede the pre-set clauses. Further there are no other agreements between the Buyer and Seller other than those contained in this Agreement.*

26. AGREEMENT IN WRITING: If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.

27. **TIME AND DATE:** *Times and Dates are determined by the location of the property.*

27. TIME AND DATE: Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

28. SUCCESSORS AND ASSIGNS: *In the event one of the parties dies before closing their heirs and executors are bound by the Agreement.*
28. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

 (Witness) (Buyer/Authorized Signing Officer) (Seal) DATE
 (Witness) (Buyer/Authorized Signing Officer) (Seal) DATE

I, the Undersigned Seller, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

 (Witness) (Seller/Authorized Signing Officer) (Seal) DATE
 (Witness) (Seller/Authorized Signing Officer) (Seal) DATE

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O.1990, and hereby agrees to execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

(Witness) (Spouse) (Seal) DATE

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at a.m./p.m. this day of, 20.....

 (Signature of Seller or Buyer)

INFORMATION ON BROKERAGE(S)	
Listing Brokerage	Tel.No.(.....)
(Salesperson / Broker Name)	
Co-op/Buyer Brokerage	Tel.No.(.....)
(Salesperson / Broker Name)	

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer. DATE (Seller) DATE (Seller) Address for Service Tel.No.(.....) Seller's Lawyer Address Email (.....) Tel.No. (.....) FAX No.	I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer. DATE (Buyer) DATE (Buyer) Address for Service Tel.No.(.....) Buyer's Lawyer Address Email (.....) Tel.No. (.....) FAX No.
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FOR OFFICE USE ONLY	COMMISSION TRUST AGREEMENT
To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale: In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust. DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale. Acknowledged by: (Authorized to bind the Listing Brokerage) (Authorized to bind the Co-operating Brokerage)	

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER,, and

SELLER,

for the purchase and sale of

..... dated the day of, 20.....

Buyer agrees to pay the balance as follows:

EDUCATION ONLY
USE ONLY

This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLERS(S):