

CONTRACT OF PURCHASE AND SALE FOR COMMERCIAL REAL ESTATE

INFORMATION ABOUT THIS CONTRACT

THIS INFORMATION IS INCLUDED FOR THE ASSISTANCE OF THE PARTIES ONLY. IT DOES NOT FORM PART OF THE CONTRACT AND SHOULD NOT AFFECT THE PROPER INTERPRETATION OF ANY OF ITS TERMS.

1. **CONTRACT:** This document, when signed by both parties, is a legally binding contract. READ IT CAREFULLY. The parties should ensure that everything that is agreed to is in writing.
2. **DEPOSIT(S):** Section 28 of the *Real Estate Services Act* requires that money held by a brokerage in respect of a real estate transaction for which there is an agreement between the parties for the acquisition and disposition of the real estate be held by the brokerage as a stakeholder. The money is held for the real estate transaction and not on behalf of one of the parties. If a party does not remove a subject clause, the brokerage requires the written agreement of both parties in order to release the deposit. If both parties do not sign the agreement to release the deposit, then the parties will have to apply to court for a determination of the deposit issue.
3. **COMPLETION:** (Clauses 6.1 and 17) Unless the parties are prepared to actually meet at the Land Title Office and exchange title documents for the Purchase Price, it is, in every case, advisable for the completion of the sale to take place in the following sequence:
 - a. The Buyer pays the Purchase Price or down payment in trust to the Buyer's Lawyer or Notary (who should advise the Buyer of the exact amount required) several days before the Completion Date, and the Buyer signs the documents.
 - b. The Buyer's Lawyer or Notary prepares the documents and forwards them for signature to the Seller's Lawyer or Notary who returns the documents to the Buyer's Lawyer or Notary.
 - c. The Buyer's Lawyer or Notary then attends to the deposit of the signed title documents (and any mortgages) in the appropriate Land Title Office.
 - d. The Buyer's Lawyer or Notary releases the sale proceeds at the Buyer's Lawyer's or Notary's office.

Since the Seller is entitled to the Seller's proceeds on the Completion Date, and since the sequence described above takes a day or more, it is strongly recommended that the Buyer deposits the money and the signed documents AT LEAST TWO DAYS before the Completion Date, or at the request of the Conveyancer, and that the Seller delivers the signed transfer documents no later than the morning of the day before the Completion Date.

While it is possible to have a Saturday or Sunday Completion Date using the Land Title Office's Electronic Filing System, parties are strongly encouraged NOT to schedule a Saturday Completion Date as it will restrict their access to fewer lawyers or notaries who operate on Saturdays; lenders will generally not fund new mortgages on Saturdays; lenders with existing mortgages may not accept payouts on Saturdays; and other offices necessary as part of the closing process may not be open.

4. **POSSESSION:** (Clauses 7.1 and 18) The Buyer should make arrangements through the real estate licensees for obtaining possession. The Seller will not generally let the Buyer move in before the Seller has actually received the sale proceeds. Where residential tenants are involved, Buyers and Sellers should consult the *Residential Tenancy Act*.
5. **ADJUSTMENT:** (Clauses 8.1 and 19) The Buyer and Seller should consider any additional adjustments that are necessary given the nature of the Property and how any costs are payable by tenants and whether the Seller holds any of the tenant's funds with respect to such costs.
6. **TITLE:** (Clause 22) It is up to the Buyer to satisfy the Buyer on matters of zoning or building or use restrictions, toxic or environmental hazards, encroachments on or by the Property and any encumbrances which are staying on title before becoming legally bound. It is up to the Seller to specify in the Contract if there are any encumbrances, other than those listed in Clause 22 and Schedule 22, which are staying on title before becoming legally bound. If you as the Buyer are taking out a mortgage, make sure that title, zoning and building restrictions are all acceptable to your mortgage company. In certain circumstances, the mortgage company could refuse to advance funds. If you as the Seller are allowing the Buyer to assume your mortgage, you may still be responsible for payment of the mortgage, unless arrangements are made with your mortgage company.
7. **CUSTOMARY COSTS:** (Clause 31) In particular circumstances there may be additional costs, but the following costs are applicable in most circumstances:

Costs to be Borne by the Seller

Lawyer or Notary Fees and Expenses:
- attending to execution documents.
Costs of clearing title, including:
- discharge fees charged by encumbrance holders,
- prepayment penalties.
Real Estate Commission (plus GST).
Goods and Services Tax (if applicable).

Costs to be Borne by the Buyer

Lawyer or Notary Fees and Expenses:
- searching title,
- investigating title,
- drafting documents.
Land Title Registration fees.
Survey Certificate (if required).
Costs of Mortgage, including:
- mortgage company's Lawyer/Notary.
- appraisal (if applicable).
Land Title Registration fees.
Fire Insurance Premium.
Sales Tax (if applicable).
Property Transfer Tax.
Goods and Services Tax (if applicable).

8. **RISK:** (Clause 32) The Buyer should arrange for insurance to be effective on the earlier of the Completion Date or the date the Buyer pays the balance of the funds into trust. The Seller should maintain the Seller's insurance in effect until the later of the date the Seller receives the proceeds of sale, or the date the Seller vacates the property.
9. **FORM OF CONTRACT:** This Contract of Purchase and Sale is designed primarily for the purchase and sale of freehold commercial real estate. If your transaction involves:
 - a building under construction
 - an operating business with or without employees being hired
 - a sale and purchase of shares in the owner of the Property
 - the purchase of a leasehold interest
 - other special circumstancesadditional provisions, not contained in this form, may be needed, and professional advice should be obtained.



CONTRACT OF PURCHASE AND SALE FOR COMMERCIAL REAL ESTATE

MLS® NO: _____ DATE: _____

The Buyer agrees to purchase the Property from the Seller on the following terms and subject to the following conditions:

PART 1 - INFORMATION SUMMARY

1. Prepared By		
1.1	Name of Brokerage	
1.2	Brokerage Address	
1.3	Licensee's Name	Phone No.
1.4	Personal Real Estate Corporation	
1.5	Licensee's Email Address	Fax No.
1.6	Brokerage Phone No.	Fax No.
2. Parties to the Contract		
2.1	Seller _____ Seller _____	
2.2	Seller's Address	
2.3	Seller's Phone No.	Fax No.
2.4	Seller's Email Address	
2.5	Seller's Incorporation No.	2.6 Seller's GST No.
2.7	Seller's Residency: <input type="checkbox"/> Resident of Canada <input type="checkbox"/> Non-Resident of Canada (as defined in the <i>Income Tax Act</i>)	
2.8	Buyer _____ Buyer _____	
2.9	Buyer's Address	
2.10	Buyer's Phone No.	Fax No.
2.11	Buyer's Email Address	
2.12	Buyer's Incorporation No.	2.13 Buyer's GST No.
3. Property		
3.1	Civic Address of Property	
3.2	Legal Description of Property	
PID		
4. Purchase Price	\$	Clause
		14
	Dollars	

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PART 2 - TERMS

- 13. INFORMATION SUMMARY:** The Information Summary being Part 1 to this Contract of Purchase and Sale for Commercial Real Estate and the Schedules attached to this Contract of Purchase and Sale for Commercial Real Estate, form an integral part of this offer. The Seller and Buyer acknowledge that they have read all of Part 1 and Part 2 and the Schedules to this Contract of Purchase and Sale for Commercial Real Estate.
- 14. PURCHASE PRICE:** The purchase price of the Property will be the amount set out in Clause 4.1 (Purchase Price).
- 15. DEPOSIT:** A deposit in the amount set out in Clause 5.2 which will form part of the Purchase Price, will be paid in accordance with Clause 26 except as otherwise set out in Schedule 15 and on the terms set out in Schedule 15. All monies paid pursuant to this Clause (the "Deposit") will be delivered in trust to the party identified in Clause 5.3 and held in trust in accordance with the provisions of the *Real Estate Services Act*. In the event the Buyer fails to pay the Deposit as required by this Contract, the Seller may, at the Seller's option, terminate this Contract. The party who receives the Deposit is authorized to pay all or any portion of the Deposit to the Buyer's or Seller's conveyancer (the "Conveyancer") without further written direction of the Buyer or Seller, provided that: (a) the Conveyancer is a Lawyer or Notary; (b) such money is to be held in trust by the Conveyancer as stakeholder pursuant to the provisions of the *Real Estate Services Act* pending the completion of the transaction and not on behalf of any of the principals to the transaction; and (c) if the sale does not complete, the money should be returned to such party as stakeholder or paid into Court.
- 16. CONDITIONS:** The obligations of the Buyer described in this Contract are subject to the satisfaction or waiver of the conditions precedent set out in Schedule 16A, if any (the "Buyer's Conditions"). The Buyer's Conditions are inserted for the sole benefit of the Buyer. The satisfaction or waiver of the Buyer's Conditions will be determined in the sole discretion of the Buyer and the Buyer agrees to use reasonable efforts to satisfy the Buyer's Conditions. The Buyer's Conditions may only be satisfied or waived by the Buyer giving written notice (the "Buyer's Notice") to the Seller on or before the time and date specified for each condition. Unless each Buyer's Condition is waived or declared fulfilled by delivery of the Buyer's Notice to the Seller on or before the time and date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.
- The obligations of the Seller described in this Contract are subject to the satisfaction or waiver of the conditions precedent set out in Schedule 16B, if any (the "Seller's Conditions"). The Seller's Conditions are inserted for the sole benefit of the Seller. The satisfaction or waiver of the Seller's Conditions will be determined in the sole discretion of the Seller and the Seller agrees to use reasonable efforts to satisfy the Seller's Conditions. These conditions may only be satisfied or waived by the Seller giving written notice (the "Seller's Notice") to the Buyer on or before the time and date specified for each condition. Unless each Seller's Condition is waived or declared fulfilled by delivery of the Seller's Notice to the Buyer on or before the time and date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.
- 17. COMPLETION:** The sale will be completed on the date specified in Clause 6.1 (Completion Date) at the appropriate Land Title Office.
- 18. POSSESSION:** The Buyer will have possession of the Property at the time and on the date specified in Clause 7.1 (Possession Date) with vacant possession if so indicated in Clause 7.2, or subject to all existing tenancies if so indicated in Clause 7.3; or subject to the specified tenancies set out in Schedule 18, if so indicated in Clause 12 (if Clause 7.3 or 12 is selected, such tenancies shall be the "Accepted Tenancies").
- 19. ADJUSTMENTS:** The Buyer will assume and pay all taxes, rates, local improvement assessments, fuel, utilities, insurance, rents, tenant deposits including interest, prepaid rents, and other charges from, and including, the date set for adjustments, and all adjustments both incoming and outgoing of whatsoever nature will be made as of the date specified in Clause 8.1 (the "Adjustment Date").

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- 20. INCLUDED ITEMS:** The Purchase Price includes the Accepted Tenancies, any buildings, improvements, fixtures, appurtenances and attachments thereto, and all security systems, security bars, blinds, awnings, curtain rods, tracks and valances, fixed mirrors, fixed carpeting, electric, plumbing, heating and air conditioning fixtures and all appurtenances and attachments thereto as viewed by the Buyer at the date of inspection, together with those items set out in Schedule 20A but excluding those items set out in Schedule 20B.
- 21. VIEWED:** The Property and all included items will be in substantially the same condition at the Possession Date as when viewed by the Buyer on the date specified in Clause 9.1.
- 22. TITLE:** Free and clear of all encumbrances except subsisting conditions, provisos, restrictions, exceptions and reservations, including royalties, contained in the original grant or contained in any other grant or disposition from the Crown, registered or pending restrictive covenants and rights-of-way in favour of utilities and public authorities, the Accepted Tenancies and any additional permitted encumbrances set out in Schedule 22.
- 23. ADDITIONAL SELLER'S WARRANTIES AND REPRESENTATIONS:** In addition to the representations and warranties set out in this Contract, the Seller makes the additional representations and warranties set out in Schedule 23 to the Buyer.
- 24. ADDITIONAL BUYER'S WARRANTIES AND REPRESENTATIONS:** In addition to the representations and warranties set out in this Contract, the Buyer makes the additional representations and warranties set out in Schedule 24 to the Seller.
- 25. GST:** In addition to the Purchase Price, the applicable Goods and Services Tax ("GST") imposed under the *Excise Tax Act* (Canada) (the "Act") will be paid by the Buyer. On or before the Completion Date, the Buyer may confirm to the Seller's Lawyer or Notary that it is registered for the purposes of Part IX of the Act and will provide its registration number. If the Buyer does not confirm that it is a registrant under Part IX of the Act on or before the Completion Date, then the Buyer will pay the applicable GST to the Seller on the Completion Date and the Seller will then remit the GST as required by the Act. All taxes payable pursuant to the *Social Service Tax Act* arising out of the purchase of the Property, will be paid by the Buyer and evidence of such payment will be provided to the Seller.
- 26. TENDER:** Tender or payment of monies by the Buyer to the Seller will be by bank draft, certified cheque, cash or Lawyer's/Notary's or real estate brokerage's trust cheque.
- 27. DOCUMENTS:** All documents required to give effect to this Contract will be delivered in registerable form where necessary and will be lodged for registration in the appropriate Land Title Office by 4 pm on the Completion Date.
- 28. TIME:** Time will be of the essence hereof, and unless the balance of the cash payment is paid and such formal agreement to pay the balance as may be necessary is entered into on or before the Completion Date, the Seller may, at the Seller's option, terminate this Contract, and, in such event, the amount paid by the Buyer will be non-refundable and absolutely forfeited to the Seller in accordance with the *Real Estate Services Act*, on account of damages, without prejudice to the Seller's other remedies.
- 29. BUYER FINANCING:** If the Buyer is relying upon a new mortgage to finance the Purchase Price, the Buyer, while still required to pay the Purchase Price on the Completion Date, may wait to pay the Purchase Price to the Seller until after the transfer and new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Buyer has: (a) made available for tender to the Seller that portion of the Purchase Price not secured by the new mortgage, and (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and (c) made available to the Seller, a Lawyer's or Notary's undertaking to pay the Purchase Price upon the lodging of the transfer and new mortgage documents and the advance by the mortgagee of the mortgage proceeds pursuant to the Canadian Bar Association (BC Branch) (Real Property Section) standard undertakings (the "CBA Standard Undertakings").

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- 30. CLEARING TITLE:** If the Seller has existing financial charges to be cleared from title, the Seller, while still required to clear such charges, may wait to pay and discharge existing financial charges until immediately after receipt of the Purchase Price, but in this event, the Seller agrees that payment of the Purchase Price shall be made by the Buyer's Lawyer or Notary to the Seller's Lawyer or Notary, on the CBA Standard Undertakings to pay out and discharge the financial charges, and remit the balance, if any, to the Seller.
- 31. COSTS:** The Buyer will bear all costs of the conveyance and, if applicable, any costs related to arranging a mortgage and the Seller will bear all costs of clearing title.
- 32. RISK:** All buildings on the Property and all other items included in the purchase and sale will be, and remain, at the risk of the Seller until 12:01 am on the Completion Date. After that time, the Property and all included items will be at the risk of the Buyer. 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.
- 33. GOVERNING LAW:** This Contract will be governed by the laws of the Province of British Columbia. The parties submit to the exclusive jurisdiction of the courts in the Province of British Columbia regarding any dispute that may arise out of this transaction.
- 34. CONFIDENTIALITY:** Unless the transaction contemplated by this Contract is completed, the Buyer and the Seller will keep all negotiations regarding the Property confidential, and the Buyer will not disclose to any third party the contents or effect of any documents, materials or information provided pursuant to or obtained in relation to this Contract without the prior written consent of the Seller, except that each of the Buyer and the Seller may disclose the same to its employees, inspectors, lenders, agents, advisors, consultants, potential investors and such other persons as may reasonably be required and except that the Buyer and the Seller may disclose the same as required by law or in connection with any regulatory disclosure requirements which must be satisfied in connection with the proposed sale and purchase of the Property.
- 35. PLURAL:** In this Contract, any reference to a party includes that party's heirs, executors, administrators, successors and assigns; singular includes plural and masculine includes feminine.
- 36. SURVIVAL OF REPRESENTATIONS AND WARRANTIES:** There are no representations, warranties, guarantees, promises or agreements other than those set out in this Contract and any attached Schedules. All of the warranties contained in this Contract and any attached Schedules are made as of and will be true at the Completion Date, unless otherwise agreed in writing.
- 37. PERSONAL INFORMATION:** The Buyer and the Seller hereby consent to the collection, use and disclosure by the Brokerages and by the managing broker(s), associate broker(s) and representative(s) of those Brokerages (collectively the "Licensee(s)") described in Clause 38, the real estate boards of which those Brokerages and Licensees are members and, if the Property is listed on a Multiple Listing Service®, the real estate board that operates that Multiple Listing Service®, of personal information about the Buyer and the Seller:
- A. for all purposes consistent with the transaction contemplated herein;
 - B. if the Property is listed on a Multiple Listing Service®, for the purpose of the compilation, retention and publication by the real estate board that operates the Multiple Listing Service® and other real estate boards of any statistics including historical Multiple Listing Service® data for use by persons authorized to use the Multiple Listing Service® of that real estate board and other real estate boards;
 - C. for enforcing codes of professional conduct and ethics for members of real estate boards; and
 - D. for the purposes (and to the recipients) described in the brochure published by the British Columbia Real Estate Association entitled *Working With a REALTOR®*.

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38. AGENCY DISCLOSURE: The Seller and the Buyer acknowledge having received, read and understood the brochure published by the British Columbia Real Estate Association entitled *Working With a REALTOR®* and acknowledge and confirm as follows:

- A. the Seller has an agency relationship with the licensee specified in Clause 10.1 who is licensed in relation to the brokerage specified in Clause 10.1;
- B. the Buyer has an agency relationship with the licensee specified in Clause 10.2 who is licensed in relation to the brokerage specified in Clause 10.2;
- C. the Buyer and the Seller have consented to a limited dual agency relationship with the licensee specified in Clause 10.3 who is licensed in relation to the brokerage specified in Clause 10.3 having signed a Limited Dual Agency Agreement having the date specified in Clause 10.4;
- D. if only Clause 10.1 has been completed, the Buyer is acknowledging no agency relationship. If only Clause 10.2 has been completed, the Seller is acknowledging no agency relationship.

39. ACCEPTANCE IRREVOCABLE (Buyer and Seller): The Seller and the Buyer specifically confirm that this Contract of Purchase and Sale is executed under seal. It is agreed and understood that the Seller's acceptance is irrevocable, including without limitation, during the period prior to the date specified, for the Buyer to either:

- A. fulfill or waive the terms and conditions herein contained; and/or
- B. exercise any option(s) herein contained.

40. THIS IS A LEGAL DOCUMENT. READ THIS ENTIRE DOCUMENT AND INFORMATION PAGE BEFORE YOU SIGN.

40A. RESTRICTION ON ASSIGNMENT OF CONTRACT: The Buyer and the Seller agree that this Contract: (a) must not be assigned without the written consent of the Seller; and (b) the Seller is entitled to any profit resulting from an assignment of the Contract by the Buyer or any subsequent assignee.

41. ADDITIONAL TERMS: The additional terms set out in Schedule 41 are hereby incorporated into and form a part of this Contract.

42. OFFER: This offer, or counter-offer, will be open for acceptance until the time and date specified in Clause 11.1 (unless withdrawn in writing with notification to the other party of such revocation prior to notification of its acceptance), and upon acceptance of the offer, or counter-offer, by accepting in writing and notifying the other party of such acceptance, there will be a binding Contract of Purchase and Sale on the terms and conditions set forth.

X		SEAL
WITNESS	BUYER	PRINT NAME
X		SEAL
WITNESS	BUYER	PRINT NAME

43. ACCEPTANCE: The Seller (a) hereby accepts the above offer and agrees to complete the sale upon the terms and conditions set out above, (b) agrees to pay a commission as per the Listing Contract, and (c) authorizes and instructs the Buyer and anyone acting on behalf of the Buyer or Seller to pay the commission out of the cash proceeds of sale and forward copies of the Seller's Statement of Adjustments to the Cooperating/Listing Brokerage, as requested, forthwith after completion.

Seller's acceptance is dated _____, yr. _____

X		SEAL
WITNESS	SELLER	PRINT NAME
X		SEAL
WITNESS	SELLER	PRINT NAME

*PREC represents Personal Real Estate Corporation

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