

CONDOMINIUM UNIT FORM OF OFFER TO PURCHASE

This form of offer is prescribed under *The Real Estate Brokers Act* for use by brokers in the purchase of a completed condominium unit in a registered Condominium Project under *The Condominium Act*. (NOTE: Other rights, obligations and remedies are provided under *The Condominium Act*.)

LISTING BROKER

SELLING BROKER

LISTING SALESPERSON

SELLING SALESPERSON

CONFIRMATION OF REPRESENTATION

In representing the parties in the negotiations for the purchase and sale of the Property:

The Selling Broker represents (check applicable statement):

The Listing Broker represents (check applicable statement):

- the Buyer and does not represent the Seller
- the Seller and does not represent the Buyer
- both parties with the consent of each

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- the Buyer and does not represent the Seller
- both parties with the consent of each

_____ Buyer's initials _____ Seller's initials
_____ Selling Salesperson's initials

_____ Seller's initials _____ Buyer's initials
_____ Listing Salesperson's initials

To _____ (the "Seller")

Seller's address _____ Seller's fax number _____

I/We (the "Buyer"):

Buyer _____

Buyer's address _____ Buyer's initials _____

Buyer _____

Buyer's address _____ Buyer's initials _____

offer to purchase, through the above named Brokers, the Property upon the following terms outlined in this agreement:

For the purpose of section 48 of *The Condominium Act*, the buyer to whom the seller is to give disclosure documents and a notice of material change, and who is authorized to exercise the right to cancel the agreement of purchase and sale under section 54 of that Act, and who is authorized to make the statutory declaration under section 57 of that Act shall be

_____ (if no name is indicated, the first buyer named in the offer is designated as the Buyer)

SUBJECT MATTERS OF THIS OFFER

1. The Property (the "Property") has a civic address of: _____ and is comprised of:

(a) Unit No. _____ (the "Unit") of the condominium project known as _____ (the "Condominium Project"), the condominium corporation for the Condominium Project being Condominium Corporation No. _____ (the "Condominium Corporation");

(b) An undivided _____% share in the common elements of the Condominium Project appurtenant to the Unit; and

(c) The following exclusive use common elements allocated to the Unit, namely (if none, state "None"):

- (i) parking stall(s) No(s). _____ ; (ii) mailbox _____ ; (iii) locker/storage compartment(s) _____ ;
- and (iv) others _____

all of the foregoing in accordance with the condominium plans for the Condominium Project (including the said unit), and subject to such terms, conditions and restrictions as set forth in the condominium declaration, the Condominium Corporation By-laws and the Condominium Project rules and *The Condominium Act* and regulations.

There shall be:

(A) subject to the provisions of the condominium declaration, included in or with the Unit, all fixtures in the Unit, including in particular, all electric light fixtures, heating and plumbing fixtures, fitted carpets, curtain rods, drapery tracks, screen and storm windows and doors as now form part of the said unit, but excluding these fixtures:

(B) excluded from the sale of the Unit, all goods and chattels which are not fixtures, excepting for the following goods and chattels which are included:

If the Unit is a bare land condominium unit, there shall be included with the Unit all buildings located on the land forming part of the Unit.

PURCHASE AND SALE PRICE AND PAYMENT

2. (a) The total purchase price to be paid by the Buyer to the Seller is \$ _____ payable as follows:

- (i) A deposit of.....\$ _____
- (ii) By assumption of existing mortgage(s) having a (aggregate) balance of principal and interest on the Possession Date ("Assumption of Mortgage(s) Schedule" must be attached) of.....\$ _____
- (iii) By net proceeds of a new mortgage to be arranged by the Buyer as follows:
term _____ years; annual interest rate not to exceed _____ %;
monthly payments excluding taxes not to exceed \$ _____ \$ _____
- (iv) By cash, certified cheque, bank draft or lawyer's trust cheque on or before the Possession Date of.....\$ _____
- (v) Other.....\$ _____

TOTAL PURCHASE PRICE _____

(b) If part of the purchase price is to be paid from the proceeds of a new mortgage, payment of that amount may be delayed by the time required for registration of the mortgage to be completed by the Land Titles Office and reported to the mortgagee and, if so, that amount shall bear interest payable to the Seller at the same rate as the new mortgage until paid. The Seller shall have a lien and charge against the Property for the unpaid portion of the purchase price (with interest as aforementioned).

- (c) If the deposit is submitted by way of cheque or other payment instrument, it shall be made payable to the Listing Broker. If the deposit is submitted in cash, it shall be deposited by the Broker receiving it. The deposit, howsoever paid, will be held in trust for the Buyer and same shall be returned to the Buyer without deduction, interest or other charge of any kind if this Offer is not accepted in accordance with its terms.
- (d) After this Offer has been accepted by the Seller, the deposit shall be held by the Listing Broker in trust, and the deposit shall, subject to the terms of this Offer, be paid or credited to the Seller as part of the purchase price when the Seller has carried out the Seller's entire obligations under this agreement.
- (e) The Buyer agrees to contribute to the common expenses in the amount of \$ _____ per month from the date of adjustments, subject to further adjustment by the Condominium Corporation.

POSSESSION

- 3. (a) Possession shall be given by _____ a.m./p.m. on the _____ day of _____, _____ (the "Possession Date");
- (b) Unless otherwise agreed to, such possession shall mean vacant of any persons occupying the Property and with all fixtures and goods and chattels not included in this transaction removed from the Property.

SELLER'S PROMISES AS TO THE STATUS OF THE CONDOMINIUM PROJECT AND THE UNIT AND ITS APPURTENANT INTEREST

- 4. The Seller promises that at the time of possession:
 - (a) as of this date or _____, the balance shown in the Condominium Project's reserve fund account is: \$ _____.
 - (b) if the Unit is a bare land condominium unit, the Unit will be free from all encroachments by adjoining structures and improvements except: _____
 - (c) the structures and improvements forming part of the Condominium Project will not encroach beyond the limits of the Condominium Project lands or on any public utility right-of-way, except: _____ and if the Unit is a bare land condominium unit, the structures and improvements forming part of the Unit will not encroach beyond the limits of the Unit lands or on any public utility right-of-way, except: _____
 - (d) unless otherwise specified in this Offer, the Unit, this Condominium Project and all included items will be in substantially the same condition as they were at the date of this Offer;
 - (e) the Condominium Project and the Unit and its appurtenant interest in the common elements described in paragraph 1(c) hereof will comply with all restrictions and requirements registered against the title and all applicable zoning regulations, except: _____
 - (f) additional promises: _____

SELLER'S PROMISES AS TO TITLE AND OWNERSHIP OF THE CONDOMINIUM PROJECT AND THE UNIT

- 5. The Seller promises that at the time of possession:
 - (a) (i) The Condominium Project will not be subject to any mortgage, encumbrance or other interest which is registered against (or deemed to be registered against) the title to the Condominium Project, or which is valid or enforceable against the Condominium Project without being so registered ("Claim"), excepting only for the following:
 - (A) any private or public building or use restriction caveat with which the Condominium Project complies,
 - (B) any easement, the existence of which is apparent on inspection of the Property,
 - (C) any easement created by the terms of the condominium declaration, the condominium plans, the Condominium Corporation By-laws, any Condominium Project rules and regulations and *The Condominium Act* (Manitoba),
 - (D) any public utility caveat protecting a right-of-way for a service to which the Condominium Project is connected;
 - (E) (insert any other exceptions): _____
 - (ii) The Unit and its appurtenant interest in the common elements will not be subject to any mortgage, encumbrance or other interest which is registered against the title to the Unit or which is valid or enforceable against the Unit without being so registered ("Unit Claim"), excepting only for the following:
 - (A) any mortgage herein agreed to be assumed as part of the purchase price,
 - (B) any private or public building or use restriction caveat with which the Unit complies,
 - (C) any easement, the existence of which is apparent on inspection of the Unit, and, any easement created by the terms of the condominium declaration, the condominium plan, the Condominium Corporation By-laws, the Condominium Project rules and regulations and *The Condominium Act*,
 - (D) any public utility caveat protecting a right-of-way for a service to which the Unit is connected,
 - (E) any Unit Claim which it is the Seller's responsibility hereunder to remove as a condition of closing,
 - (F) any Unit Claim which may be caused by or is the responsibility of the Buyer,
 - (G) the following option to purchase rights held by the current tenants in occupancy, the holders of rights of first refusal to re-rent the unit, or any other person: _____ (if none, put "Nil"),
 - (H) the following tenancy rights (if none, put "Nil") _____. The present tenant(s) are _____ and have leased the Unit under a verbal/written agreement and commenced occupancy on _____, _____ and are presently paying \$ _____ rent per month. The condominium declaration was registered on _____, _____.
- The Buyer understands that the tenant(s) may have certain rights of continued occupancy under *The Condominium Act*, as well as rights to notice to vacate and other rights under *The Residential Tenancies Act* (Manitoba),

(I) the following rights held by a person who has a right of first refusal to re-rent the unit (if none, put "NIL")_____. The person leased the Unit under a verbal/written agreement and commenced occupancy on _____, _____, and moved out on _____, _____. The amount of rent per month was \$ _____. The condominium declaration was registered on _____, _____. The Buyer understands that the person may have certain rights of continued occupancy under *The Condominium Act*, as well as rights to notice to vacate and other rights under *The Residential Tenancies Act* (Manitoba),
(J) (Insert any other exceptions):

(b) All fixtures, goods and chattels included with the Property will be owned by the Seller free from any security or other interest (including any rental contract) except as follows:

_____ and the Buyer shall assume responsibility for all such security or other interests from and after the Possession Date.

(c) The Seller will be or be entitled to be rightfully in actual and personal peaceable possession and occupation of the whole of the Property (except for any tenancies assumed by the Buyer).

SELLER'S PROMISE REGARDING GOODS AND SERVICES TAX

6. The Seller promises that the supply of the Property and all included fixtures, goods and chattels by the Seller to the Buyer under the agreement, formed from the acceptance of this Offer ("the Agreement" or "this Agreement") is exempt from goods and services tax.

CONDITIONS BENEFITING THE BUYER

7. This Agreement is terminated unless the following conditions for the benefit of the Buyer are fulfilled or waived:

(a) That any mortgage shown as to be arranged can be so arranged by the Buyer by _____ a.m./p.m. on the _____ day of _____, _____; and

(b) Others (if no others, state "None"); _____

CONDITIONS GENERALLY

8. (a) The party responsible for fulfillment of a condition will exercise reasonable efforts to fulfill the condition.

(b) Upon fulfillment of a condition, the benefited party shall give written notice of fulfillment.

(c) If this Agreement is terminated under any of paragraphs 7, 8, or 9(b)(i) or 14, then the Seller will direct the Broker to return the deposit to the Buyer without deduction.

(d) The party benefited by a condition may waive fulfillment of that condition, provided that such party does so in writing before the end of the time within which such condition is to be fulfilled. If the benefited party does not so waive and does not give notice of fulfillment with respect to such condition, then such condition will be deemed to be not fulfilled. Any written waiver or notification with respect to any condition for the benefit of the Buyer may be given to either the Seller or the Listing Broker and any written waiver or notification with respect to any condition for the benefit of the Seller may be given to either the Buyer or the Selling Broker.

MUTUAL PROMISES AND GENERAL PROVISIONS

9. (a) All adjustments of taxes (including the current year's local improvement levies if any), rental or leasing levy accounts and other adjustments if any will be made as at the commencement of the Possession Date.

(b) (i) The Property until the time of possession shall remain at the risk and responsibility of the Seller. If the Property suffers substantial damage which is not repaired before the time of possession to substantially the same condition it was in prior to the damage occurring, the Buyer may terminate this Agreement.

(ii) The Buyer shall not be bound to assume, nor the Seller to transfer, any policy of insurance applicable on the Property or the Condominium Project which has been obtained solely by the Seller.

(c) If either party (the "Defaulting Party") is in breach of their obligations hereunder then the other party (the "Aggrieved Party") shall be entitled to exercise whatever remedies the Aggrieved Party may have by virtue of the default. Where the Defaulting Party is the Buyer, the Seller shall be entitled to retain the deposit as the Seller's own property, but whether or not the Seller has then terminated or thereafter terminates the Seller's right and obligation to sell and the Buyer's right and obligation to purchase under this Agreement by virtue of the Buyer's default, such retention of the deposit shall not itself constitute a termination of this Agreement and shall not restrict the Seller from exercising any other remedies which the Seller may have by virtue of the Buyer's default, including the right to claim damages from the Buyer which the Seller sustains in excess of the deposit.

(d) (i) Each of the Seller and the Buyer authorizes each other, their respective solicitors, the Listing Broker and the Selling Broker to pay and deliver to their respective solicitors, any money or documents due in connection with this transaction and for so doing, this shall be their full and sufficient authority and the receipt of each such solicitor respectively shall be a good discharge therefor.

(ii) In closing this transaction, the Seller's solicitor and the Buyer's solicitor may by agreement exchange trust conditions and undertakings to carry out the intention of the seller and buyer.

(e) (i) Time shall in all respects be of the essence hereof.

(ii) This Agreement shall be binding upon and shall enure to the benefit of the Seller and the Buyer and each of their respective successors, assigns and personal representatives.

(iii) This Agreement contains all of the promises, agreements, representations, warranties and terms between the parties relating to the transaction hereby contemplated, and:

(A) anything not included in writing in this Agreement will have no force or effect whatsoever;

(B) any amendment made to this Agreement will have no force or effect whatsoever unless it is in writing and signed by each of the parties hereto;

(C) in making this Offer, the Buyer relies entirely on the Buyer's personal inspection of the Property and of the Condominium Project and the Seller's promises contained (and only those contained) in this Offer.

(iv) The Seller's promises contained in this Agreement which the Seller and Buyer agree will survive and continue in effect after the closing of this transaction are paragraphs 4(d), 5(b), 5(c) and 6. Any exception or any additional promises intended to survive closing are as follows (if none, state "None")

(v) All references to times in this Agreement mean Manitoba time.

REPRESENTATIONS BY BROKER

10. The Broker(s) or the authorized representative(s) of the Broker(s) have made the following promises, undertakings or guarantees to the Buyer (if none, state "None"):

If any such promise, undertaking or guarantee is made and breached, this will not, unless otherwise specified, constitute a breach by the Seller or by the Buyer of their obligations under this Agreement.

USE AND DISCLOSURE OF SALE INFORMATION

11. The Seller and the Buyer consent to the collection, use and disclosure of the personal information regarding the Property and this transaction by the Broker(s) for reporting, appraisal and statistical purposes. If the property is listed on the Multiple Listing Service of a real estate board or association, the Seller and the Buyer give the same consent to the board or association.

DEADLINE FOR ACCEPTANCE BY SELLER

12. This Offer, if not accepted by _____ a.m./p.m. on the _____ day of _____, _____ shall expire.

OTHER TERMS

13. _____

BUYER'S RIGHT TO CANCEL

14. In signing this Offer, the Buyer acknowledges that *The Condominium Act* provides that the Buyer may cancel the agreement at any time up to midnight on the 7th day after the day the agreement of purchase and sale is entered into by the Seller and Buyer or the Seller has complied with section 51 of *The Condominium Act*, whichever is later. (If the last day to cancel falls on Saturday, Sunday or a holiday, the cooling-off period ends on that day unless the holiday is Remembrance Day.)

To cancel the agreement, the Buyer shall within the time period either

- (a) give written notice of the cancellation to the Seller or the Seller's agent; or
- (b) send a written notice of cancellation by registered mail, e-mail, fax or any other method that provides proof that it was sent to the address or fax number given by the Seller or the Seller's agent for this purpose.

MATERIAL CHANGE

15. In signing this Offer, the Buyer acknowledges that *The Condominium Act* provides that the Buyer may cancel the agreement if a material change occurs in relation to the agreement.

The time period for cancelling the agreement depends on whether the Seller gives the Buyer notice of the material change. If the Buyer has been given notice of the material change, the Buyer may cancel the agreement up to midnight on the 7th day after the day the Seller gave the Buyer the notice or before the Buyer receives possession of the unit, whichever is earlier. If the Buyer has not been given notice of the material change, the Buyer may cancel the agreement at any time after the end of the cooling-off period described in subsection 47(1) of *The Condominium Act* (and paragraph 14 of the agreement) and before being given possession of the unit.

To cancel the agreement, the Buyer shall within the time period either

- (a) give written notice of the cancellation to the Seller or the Seller's agent; or
- (b) send a written notice of cancellation by registered mail, e-mail, fax or any other method that provides proof that it was sent to the address or fax number given by the Seller or the Seller's agent for this purpose.

If the last day to cancel falls on Saturday, Sunday or a holiday, the cancellation period ends on that day unless the holiday is Remembrance Day.

If the Buyer is cancelling the agreement because of a material change and the Seller did not notify the Buyer of that change, the notice of cancellation must

- (a) state the Buyer is cancelling the agreement because of a material change; and
- (b) identify the change and explain why it is a material change.

In signing this Offer, the Buyer acknowledges that *The Condominium Act* permits the Seller to apply to court (within 10 days after receiving the Buyer's notice of cancellation) for a determination that the Buyer did not have the right to cancel the agreement.

ACKNOWLEDGEMENT BY BUYER OF NEED TO OBTAIN A STATUS CERTIFICATE FROM THE CONDOMINIUM CORPORATION

16. In signing this Offer, the Buyer acknowledges that the Buyer has been advised that the Buyer should request a status certificate from the Condominium Corporation, as provided in subsection 61(1) of *The Condominium Act*, before closing the transaction.

The Condominium Act provides that a transfer of the Unit may not be registered in the Land Titles Office unless it is accompanied by:

- (a) a statutory declaration from the Seller; and
- (b) a statutory declaration from the Buyer.

BUYERS ARE STRONGLY URGED TO CONSIDER MAKING THEIR OWN ENQUIRIES WITH RESPECT TO ISSUES OF IMPORTANCE TO THEM, KEEPING IN MIND THAT THE SELLER'S KNOWLEDGE OF THE PROPERTY MAY BE INCOMPLETE OR INACCURATE. THIS OFFER IF ACCEPTED AND NOT CANCELLED BY THE BUYER PURSUANT TO PARAGRAPH 14 OR 15 OF THIS OFFER IS A LEGALLY BINDING CONTRACT: READ IT ALL BEFORE YOU SIGN. BOTH BUYERS AND SELLERS ARE ADVISED TO SEEK PROFESSIONAL ADVICE IF THEY HAVE ANY QUESTIONS REGARDING THE PROPERTY OR QUESTIONS OR CONCERNS REGARDING ANY PROMISES, REPRESENTATIONS OR UNDERTAKINGS.

Signed by the Buyer at _____ a.m./p.m. this _____ day of _____, _____.

Witness

Buyer

Witness

Buyer

Name of Buyer's Solicitor

ACCEPTANCE

The Seller hereby accepts the above Offer or accepts the above Offer subject only to the following amendments ("Counteroffer") which must be accepted by the Buyer by _____ a.m./p.m. on the _____ day of _____, _____. (if none, state "None"):

SELLER'S DIRECTIONS TO BROKER AND SELLER'S SOLICITOR REGARDING COMMISSION

By the Seller's signature below, the Seller acknowledges (and agrees) to pay to the Listing Broker above named an agreed commission of _____ (state in terms of percentage of total purchase price or dollars). The Seller directs and authorizes the Listing Broker to retain and apply in payment of the commission which the Seller will owe to the said Broker in connection with the purchase and sale transaction the deposit or so much thereof as is required to pay such commission at the time specified in the listing agreement between the Listing Broker and the Seller or when permitted by applicable law. The Seller further directs and authorizes the Seller's solicitor named below to pay promptly to the Listing Broker any unpaid balance of the commission out of the sale proceeds as soon as the same are properly payable to the Seller. The Seller agrees not to revoke the foregoing directions and authorizations unless such revocation is agreed to in writing by the Listing Broker.

Signed by the Seller at _____ a.m./p.m. this _____ day of _____, _____.

_____ Witness	_____ Seller
_____ Witness	_____ Seller
	_____ Name of Seller's Solicitor

ACCEPTANCE BY BUYER OF COUNTEROFFER

The Buyer hereby accepts the above Counteroffer.

Signed by the Buyer at _____ a.m./p.m. this _____ day of _____, _____.

_____ Witness	_____ Buyer
_____ Witness	_____ Buyer

NOTE: If the Buyer wishes to accept the Counteroffer (if any) but subject to any additional terms or conditions, this will constitute a counter-counteroffer and the Buyer should submit an entirely new Offer to Purchase.

HOMESTEADS ACT

The parties are advised that if the property is a "homestead" within the meaning of *The Homesteads Act*, and if the ownership of both spouses or common-law partners is not registered on the title to the property, the spouse or common-law partner whose name is not on title but has homestead rights in the Property must consent to the disposition (below) or provide a Release of Homestead Rights in accordance with that Act.

Homesteads Act Consent to Disposition and Acknowledgement

I, the spouse or common-law partner of the Seller, consent to the disposition of the homestead effected by this instrument and acknowledge that:

- 1. I am the first spouse or common-law partner to acquire homestead rights in the property.
OR
- A previous spouse or common-law partner of my current spouse or common-law partner acquired homestead rights in the property but those rights have been released or terminated in accordance with *The Homesteads Act*.
- 2. I am aware that *The Homesteads Act* gives me a life estate in the homestead and that I have the right to prevent this change of the homestead by withholding my consent.
- 3. I am aware that the effect of my consent is to give up my life estate in the homestead to the extent necessary to give effect to this change of the homestead.
- 4. I execute this consent apart from my spouse or common-law partner freely and voluntarily, without any compulsion on the part of my spouse or common-law partner.

_____ Name of spouse or common-law partner	_____ Signature of spouse or common-law partner	_____ Date
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_____ Name of witness	_____ Signature of witness	_____ Date
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A Notary Public in and for the Province of Manitoba.
A Commissioner for Oaths in and for the Province of Manitoba.

My commission expires: _____.
Or other person authorized to take affidavits under *The Manitoba Evidence Act* (specify).

BROKER'S RECEIPT FOR DEPOSIT PAID IN CASH (Not required if deposit paid by cheque)

(insert name of Broker)
hereby acknowledges receipt of the above cash deposit, (and undertakes to pay it over to the Listing Broker on the next business day following the acceptance of this Offer). (Delete Undertaking if receipt given by Listing Broker.) Said deposit shall be held in trust by the Broker or Brokers receiving it as specified in paragraphs 2(c) and 2(d) of this Offer.

(Signature of Broker or Authorized Official or Salesperson)