

RESIDENTIAL FORM OF OFFER TO PURCHASE

(This form of offer to purchase is prescribed under *The Real Estate Brokers Act* for the purchase of single family residential houses)

SELLING BROKER

LISTING BROKER

SELLING SALESPERSON

LISTING SALESPERSON

CONFIRMATION OF REPRESENTATION

In representing the parties in the negotiation 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 Buyer and does not represent the Seller

_____ the Seller and does not represent the Buyer

_____ the Seller and does not represent the Buyer

_____ both parties with the consent of each

_____ both parties with the consent of each

(Buyer's initials) _____ (Selling Salesperson's initials) _____ (Seller's initials) _____ (Listing Salesperson's initials) _____

To _____ (the "Seller")

Seller's address _____

I/We _____ (the "Buyer")

Buyer's address _____

offer to purchase, through the above named Broker(s), the Property upon the following terms:

SUBJECT MATTERS OF THIS OFFER

1. The Property (the "Property") is the following described land and all structures and improvements thereon (insert civic address or legal description):

(a) There shall be included in or with the Property all fixtures and in particular all such electric light fixtures, heating and plumbing fixtures, T.V. antennas, satellite dishes and receivers and all related hardware, fitted carpets, curtain rods, drapery tracks, screen and storm windows and doors as are now on the Property, but excluding these fixtures:

(b) All goods and chattels which are not fixtures shall be excluded excepting for the following which are included:

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 by the Broker holding it as trustee 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.

POSSESSION

3. (a) Possession shall be given by _____ on the _____ day of _____, 20____ (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 PROPERTY

4. The Seller promises that:

(a) at the time of possession:

(i) the Property will be free from all encroachments by adjoining structures and improvements except:

(ii) The structures and improvements on the land will not encroach beyond the limits of the land or on any public utility right-of-way, except:

(iii) unless otherwise specified in this Offer, the Property and all included items will be in substantially the same condition they were in at the date of this Offer:

Buyer's initials _____ Seller's initials _____

(iv) the Property will comply with all restrictions and requirements registered against the title and all applicable zoning regulations, except:

(b) Additional promises:

SELLER'S PROMISES AS TO TITLE AND OWNERSHIP

5. The Seller promises that at the time of possession:

(a) The property will not be subject to any mortgage, encumbrance or other interest which is registered against the title to the Property or which is valid or enforceable against the Property without being so registered ("Claim"), excepting only for the following:

- (i) any mortgage herein agreed to be assumed as part of the purchase price;
- (ii) any private or public building or use restriction caveat with which the Property complies;
- (iii) any easement, the existence of which is apparent on inspection of the Property;
- (iv) any public utility caveat protecting a right-of-way for a service to which the Property is connected;
- (v) any Claim which it is the Seller's responsibility hereunder to remove as a condition of closing;
- (vi) any Claim which may be caused by or is the responsibility of the Buyer; and
- (vii) (insert any other exceptions, including tenancies)

(b) All included fixtures and goods and chattels 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 agreed to be 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 this agreement is exempt from goods and services tax.

SELLER TO PROVIDE PROPERTY DISCLOSURE STATEMENT

7. (a) The Seller agrees to complete a Property Disclosure Statement in the prescribed form attached as Appendix A and deliver it to the Buyer or to the Selling Broker within ___ hours after acceptance of this offer. On delivery of the Statement, it forms part of this agreement.

OR

(b) The Property Disclosure Statement completed by the Seller in the prescribed form and attached to this Offer forms part of this agreement. *(Strike out paragraph (a) or (b), whichever does not apply. Strike out all of section 7 if the Buyer does not require a Property Condition Statement)*

CONDITIONS BENEFITING THE BUYER

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

(a) That, within ___ hours after delivery of the Property Disclosure Statement pursuant to paragraph 7(a), the Buyer be satisfied with that Statement.

For the purpose of paragraph 10(d), delivery to the Seller or the Listing Broker of a copy of the Statement containing the acknowledgement of the Buyer (each Buyer, if there is more than one) that he or she is satisfied with the Statement is deemed to be notice to the Seller this condition has been fulfilled.

(Strike out paragraph 8(a) if paragraph 7(a) is struck out.)

(b) That any mortgage shown as to be arranged can be so arranged by the Buyer by _____ on the _____ day of _____, 20_____.

(c) That by _____ on the _____ day of _____, 20_____ the Buyer obtain, at the Buyer's expense, an inspection of the property, satisfactory to the Buyer, by an inspector chosen by the Buyer, and

(d) (Others - if no others, state "None")

CONDITIONS BENEFITING THE SELLER

9. This agreement is terminated unless the following conditions for the benefit of the Seller are fulfilled or waived (if none, state "None"):

CONDITIONS GENERALLY

10. (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 8, 9 or 11(b)(i), then the Seller directs 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.

Buyer's initials _____ Seller's initials _____

MUTUAL PROMISES AND GENERAL PROVISIONS

- 11. (a) All adjustments of taxes (including the current year's local improvement levies if any) 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 on the Property.
 - (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 retainer 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 authorize 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 the 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 only on the Buyer's personal inspection of the Property, the Seller's promises and representations contained in this Offer and any Property Disclosure Statement that forms part of this agreement.
 - (iv) The following will survive and continue in effect after the closing of this transaction:
 - (A) the promises made in paragraph 4(a)(iii), 5(b) and (c) and 6;
 - (B) the representations and promise made in any Property Disclosure Statement that forms part of this agreement.
- Any exceptions 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

- 12. 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

- 13. 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

- 14. This Offer, if not accepted by _____ on the _____ day of _____, 20____ shall expire.

OTHER TERMS

- 15. _____

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 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 _____ this _____ day of _____, 20_____.

Witness

Buyer

Witness

Buyer

Name of Buyer's Solicitor

Buyer's initials _____ Seller's initials _____

ACCEPTANCE By Seller (with directions regarding commission):

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 _____ on the _____ day of _____, 20 _____. (If none, state "None"):

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) plus applicable Goods and Services Tax. 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 _____ this _____ day of _____, 20 _____.

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 _____ this _____ day of _____, 20 _____.

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 ACKNOWLEDGMENT

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 a right to prevent this change of the homestead by withholding my consent.
- 3. I am aware that the effect of this 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

Witness

Signature of Witness

Date

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)

Buyer's initials _____ Seller's initials _____