

**OFFER TO PURCHASE REAL ESTATE
(Commercial or Residential)**

TABLE OF CONTENTS

	PAGE
RECITALS	7
0.00 INTERPRETATION	8
0.01 Definitions	8
0.01.01 Activities	8
0.01.02 Breach	8
0.01.03 Closing Session	8
0.01.04 Confidential Information	8
0.01.05 Counter-Offer	9
0.01.06 Deposit	9
0.01.07 Depository	9
0.01.08 Dispute	9
0.01.09 Encumber / Encumbrance	9
0.01.10 Force Majeure	9
0.01.11 Immovable	10
0.01.12 Law	10
0.01.13 Legal Representatives	10
0.01.14 Loss	10
0.01.15 Offer	11
0.01.16 PARTY	11
0.01.17 Person	11
0.01.18 Prime Rate	11
0.02 Entire Offer	11
0.03 Jurisdiction	11
0.04 Non-Compliance	11
0.04.01 Severability	12
0.04.02 Substitute Provision	12
0.05 Miscellaneous	12
0.05.01 Cumulative Rights	12
0.05.02 No Waiver	12
0.05.03 Time and Days	12
a) Time of the Essence	12
b) Computation of Time	12
c) Delays	13
0.05.04 Financial References	13
0.05.05 Cross-Reference	13
0.05.06 Gender and Number	13
0.05.07 Headings	14
0.05.08 Knowledge	14

OFFER TO PURCHASE REAL ESTATE (Commercial or Residential)

0.05.09	Approval.....	14
0.05.10	Accounting Standards.....	14
1.00	PURPOSE	14
1.01	General.....	14
1.02	Conditions.....	14
1.02.01	Required by OFFEROR	14
1.02.02	Required by BENEFICIARY	15
1.02.03	Choice.....	15
1.03	Date of Occupancy [OR Possession]	15
1.04	Property Included.....	15
2.00	CONSIDERATION.....	15
2.01	Purchase Price.....	16
2.02	Adjustments	16
2.03	Allocation	16
3.00	TERMS OF PAYMENT.....	16
3.01	Deposit in Trust	16
3.02	Release of Deposit upon Acceptance	16
3.03	First Instalment	17
3.04	Balance	17
3.05	Interest	17
3.06	Loss of Term.....	17
4.00	SECURITY	17
4.01	Security Interests	17
4.01.01	Immovable Hypothec	17
4.01.02	Movable Hypothec Without Delivery	18
4.02	Suretyship.....	18
5.00	MUTUAL REPRESENTATIONS AND WARRANTIES	18
5.01	Status.....	18
5.02	Authority.....	19
5.03	Binding Offer.....	19
5.04	Canadian Resident	20
5.05	Commission	20
5.06	Insurance.....	20
5.07	Nominee.....	20
5.08	Informed Decision	20
5.09	Fundamental Provisions.....	20
5.10	Disclosure	20
5.11	Legal Proceedings.....	21
6.00	REPRESENTATIONS AND WARRANTIES OF OFFEROR	21

OFFER TO PURCHASE REAL ESTATE (Commercial or Residential)

6.01	Legal Activities	21
7.00	REPRESENTATIONS AND WARRANTIES OF BENEFICIARY	21
7.01	Ownership Rights	21
7.02	Valid Title	21
7.03	Rights Affecting Immovable	22
7.04	Construction	22
7.05	Permits	22
7.06	Environment	22
8.00	MUTUAL DUTIES AND OBLIGATIONS	22
8.01	Confidential Information	22
8.01.01	Undertaking	22
8.01.02	Duration of Undertaking	23
8.01.03	Penalty	23
8.02	Continuation of Representations and Warranties	23
8.03	Indemnification	23
8.03.01	Scope	23
8.03.02	Procedure	24
8.03.03	Third-Party Claim	24
8.03.04	Duration of Representations and Warranties	25
8.03.05	Deductible	25
8.03.06	Limitation	25
8.04	Disclosure of Offer	26
8.04.01	Undertaking	26
8.04.02	Default	26
8.05	Further Assurances	26
8.06	Counter-Offers	26
9.00	DUTIES AND OBLIGATIONS OF OFFEROR	26
9.01	Taxes	26
10.00	DUTIES AND OBLIGATIONS OF BENEFICIARY	27
10.01	Information	27
10.02	Delivery	27
10.03	Transfer of Permits	27
10.04	Payment of Taxes	27
11.00	SPECIAL PROVISIONS	27
11.01	Assignment	27
11.01.01	Prohibition	27
11.01.02	Reasonable Cause	27
11.01.03	Effect of Breach	28
11.01.04	Exception	28

OFFER TO PURCHASE REAL ESTATE (Commercial or Residential)

11.02	Force Majeure	28
11.02.01	Limitation on Liability	28
11.02.02	Duty	28
11.03	Relationship Between the PARTIES	29
11.04	Condition	29
11.05	Inspection of Immovable	29
11.06	Environmental Verification	29
11.07	Default	30
11.08	Costs	30
11.09	Sale Not Completed	30
11.09.01	Offer Not Accepted	30
11.09.02	Sale Not Completed	30
	a) Default of OFFEROR	30
	b) Default of BENEFICIARY	30
12.00	GENERAL PROVISIONS	31
12.01	Notice	31
12.02	Dispute Resolution	32
12.02.01	Good Faith Negotiations	32
	a) Written Notice	32
	b) Meeting	32
	c) Legal Proceedings	32
	d) Protective Measures	32
12.02.02	Mediation	32
	a) Process	32
	b) Mediator	33
	c) Settlement	33
	d) Arbitration [OR Legal Proceeding]	33
12.02.03	Arbitration (if VI of 12.02.02 c) applies)	33
	a) Notice	33
	b) Reply	33
	c) Appointment of a Third Arbitrator	34
	d) Subcontracts	34
	e) Confidentiality	34
	f) Hearing	34
	g) Ruling	35
	h) Costs	35
	i) Supplementary Rules	35
12.03	Choice of Forum	35
12.04	Counterparts	35
12.05	Amendment	35
12.06	No Waiver of Rights	36
12.07	Electronic Transmission	36
12.08	Language	36

**OFFER TO PURCHASE REAL ESTATE
(Commercial or Residential)**

13.00	CLOSING SESSION.....	36
14.00	DEADLINE FOR ACCEPTANCE	36
15.00	SCOPE	37
15.01	Previous Offers	37

SCHEDULES

	PAGE
SCHEDULE A – EXCERPT OF A RESOLUTION OF OFFEROR.....	40
SCHEDULE B – EXCERPT OF A RESOLUTION OF BENEFICIARY.....	41
SCHEDULE 0.01.11 – LEGAL DESCRIPTION OF IMMOVABLE.....	42
SCHEDULE 1.04 – PROPERTY INCLUDED.....	42
SCHEDULE 4.01.01 – IMMOVABLE HYPOTHEC	42
SCHEDULE 4.01.02 – MOVABLE HYPOTHEC WITHOUT DELIVERY	42
SCHEDULE 4.02 – SURETYSHIP AGREEMENT	43
SCHEDULE 7.02 – ENCUMBRANCES.....	45

○ ○ ○ ○ ○



www.edilex.com

OFFER TO PURCHASE REAL ESTATE (Commercial or Residential)

OFFER TO PURCHASE REAL ESTATE submitted on, 20..., in the City of, Province of, Canada, and expiring on, 20..., at a.m. [p.m.]

BETWEEN: V1 (*name of individual*), (*occupation*), domiciled and residing at (*civic number and street name*), in the City of (*name of city*), Province of (*name of province*), (*postal code*), operating as a sole proprietorship under the name (*business name*);

OR

V2 (*corporate name*), a legal person duly incorporated under the Act (*name of statute under which the corporation was incorporated*), with its principal place of business at (*civic number and street name*), in the City of (*name of city*), Province of (*name of province*), (*postal code*), and duly registered under the designating number in accordance with the Act (*name of the applicable statute governing the legal registration of the corporation*), represented by (*name of representative*), its (*title of representative*), duly authorized for the purposes hereof, [as he/she so declares] **OR** [as indicated in the resolution of the sole director [OR board of directors], attached hereto as Schedule A];

OR

V3 (*common business name*), [a general partnership], **OR** [a limited partnership represented by (*name of its general partner*), its general partner] **OR** [an undeclared partnership], **OR** [a joint venture], **OR** [a collaboration], **OR** [a group of persons] operating a business, duly formed under the [..... Act (*identify applicable statute*)] **OR** [Civil Code of Quebec] **OR** [applicable general law], with its head or registered office at (*civic number and street name*), in the City of (*name of city*), Province of (*name of province*), (*postal code*), and duly registered (*if applicable*) under the designating number in accordance with the Act (*name of applicable statute governing legal registration of corporation*) represented by (*name of representative*), its (*title of representative*), duly authorized for the purposes hereof as he/she so declares **OR** [as indicated in the resolution of the partners of the general partnership], **OR** [as indicated in the resolution of the sole director [or Board of Directors] of the general partner of the limited partnership], **OR** [as indicated in the resolution of the partners of the undeclared partnership], **OR** [as indicated in the resolution of the sole director [or Board of Directors] of each participant in the joint venture], **OR** [as indicated in the resolution of the sole director [or Board of

OFFEROR	BENEFICIARY

**OFFER TO PURCHASE REAL ESTATE
(Commercial or Residential)**

Directors] of each participant in the collaboration], **OR** [as indicated in the resolution of the members of the group of persons], attached hereto as Schedule A;

HEREINAFTER THE “OFFEROR”;

AND: *(identify beneficiary);*
(select the appropriate version from those listed above and, if applicable, insert Schedule B)

HEREINAFTER THE “BENEFICIARY”;

HEREINAFTER COLLECTIVELY THE “PARTIES”.

AND INTERVENING HEREIN:
..... *(identify surety, if applicable);*
(select the appropriate version from those listed above and, if applicable, insert Schedule C)

HEREINAFTER THE “SURETY”;

RECITALS

THE OFFEROR DECLARES AS FOLLOWS:

- A) The BENEFICIARY is the owner of a commercial [**OR** residential] immovable located at in the City of, Province of, *(postal code)*, the legal description of which is set out in Schedule 0.01.11 hereto;
- B) The OFFEROR is interested in purchasing the above-mentioned immovable;
- C) The OFFEROR hereby proposes the various terms and conditions of the offer to purchase that it wishes to make on the immovable;
- D) The OFFEROR wishes to record the terms of their agreement regarding such purpose in a private instrument;
- E) It is the intent of the OFFEROR that this offer be construed as a contract by mutual agreement.

OFFEROR	BENEFICIARY

OFFER TO PURCHASE REAL ESTATE (Commercial or Residential)

THE OFFEROR PROPOSES THE FOLLOWING:

0.00 INTERPRETATION

0.01 Definitions

Unless otherwise indicated herein or inconsistent with the context, capitalized words and expressions appearing in this offer [and in any ancillary or subordinate documentation] will be interpreted as follows:

0.01.01 Activities

means, regarding the OFFEROR, *(describe its principal business activities)* and, regarding BENEFICIARY, *(describe its principal business activities)*;

0.01.02 Breach

means, with regard to any representation or warranty or obligation under the Offer:

- a) any misrepresentation, inaccuracy, error, or failure to disclose;
- b) any non-compliant performance or failure to perform an obligation; or
- c) any non-compliance, infringement, default or failure to satisfy any provision;

0.01.03 Closing Session

means, following acceptance of the Offer, the date on which all the PARTIES will sign the notarized deed of sale for the Immovable and the related documentation evidencing the sale;

0.01.04 Confidential Information

means any information (commercial, technical, scientific, financial, legal, personal or other information) that a PARTY discloses [before and] during the term of the Offer and that the receiving PARTY, exercising reasonable business judgment, understands to be confidential, including, in particular, any information related to its Activities, business strategies and opportunities, finances, intellectual property, suppliers, clients or employees, but excludes:

- a) information known to the receiving PARTY prior to the date of its disclosure;

OFFEROR	BENEFICIARY