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The Definitive Guide to Using Vendor Take-Back Mortgages (VTB's)

*Real Estate Investment Network™
REIN™ - Canada's Most Trusted Source of
Long-Term Sustainable Wealth Since 1992*

Canada Mortgage and Housing Corporation (CMHC) describes a Vendor Take Back Mortgage (VTB) as the seller or vendor rather than a financial institution financing a portion of the mortgage. An agreement is made between the two parties independent of much of the administrative hassle associated with obtaining one through a financial institution. This can be helpful when the buyer cannot (or it does not provide decent leverage) finance the entire property from a down payment and conventional first mortgage.

A couple of terms that will be handy reference for this guide, including a simple way to remember the differences between Mortgagor and Mortgagee:

Mortgagor = Borrower (two "o's" in Borrower and Mortgagor)

Mortgagee = Lender (two "e's" in Mortgagee and Lender)

Loan-To-Value (LTV) = total mortgages divided by the total value (represented as a percentage) — example

| | |
|------------------|-----------|
| House value= | \$200,000 |
| Total Mortgages= | \$120,000 |
| LTV= | 60% |

Buying investment properties conventionally with 20% down can sometimes be complex, filled with twists and turns. Once you start to add secondary financing on the property, all the variables become more complex and more time and effort will be required to complete the transaction.

A vendor take-back mortgage is a unique situation. It can work in your favour, but it can also be very complicated, and you will need some support to complete this deal.

If you consider this option, be sure to use a lawyer who is aware of the intricacies of a vendor take-back mortgage. You need to plan ahead for all sorts of situations.

For example:

- If the Mortgagee dies, and their estate (including your mortgage) needs to be 'liquidated'
- If the Mortgagee or Mortgagor becomes insolvent
- If property values drop and the property is mortgaged for more than the property is worth

However, the pros for vendor take back mortgages are often worth the hassle. Sometimes vendors may take a lower interest rate than a bank. They may not require the same kind of credit check. They may also be more flexible regarding repayment terms.

It's important to weigh the pros and cons. Understand your own unique situation. Consult a real estate lawyer who has handled vendor take back mortgage transactions before. Be sure the constraints of the mortgage agreement will work in your favour - and are more advantageous than using another type of lender, such as a finance company mortgage.

Myth's of Vendor Take-back mortgages:

- They are impossible to have a seller agree to
- A seller will offer you the entire down-payment via VTB, and you can buy the property with no money down. If you are dealing with Banks for your first mortgage financing you must have some 'skin' in the game. Typically 10% - 15% in as a down payment
- All second mortgages are risky, and most of these mortgages never get repaid

Advantages for VTB's (from the Buyers perspective):

- Potentially less down payment required to put down on your purchases
- Can top-up a low LTV from the bank (i.e. 65% LTV First Mortgage + 15% VTB = 80% LTV)
- More flexible than the bank for securing financing (i.e. potentially no credit check, complete Sophisticated Investor Binder package)

Advantages for the VTB's (from Sellers perspective):

- It provides steady cash flow over time, rather than dumping a pile of money and forcing you to go out and get a return on it somewhere else
- Flexibility when selling
- Entice buyers - a unique and attractive proposition to people (buy with low down payment), potentially selling a property in a slower market
- Ease of buying - providing financing for some buyers may make the buying process easier
- Potentially higher price - by making things easier to buy, the seller may be able to raise their price and eventually at full list or above-list price.
- The ability to defer some payment of capital gains taxes (non owner occupied property)—later in this guide you will be provided a detailed example of how the numbers work. Needless to say, you do need an accountant on your team to fully vet this information through.

Working with Banks and VTB's

If you are required to secure mortgage funds from a bank, you will have to follow their rules. Banks do allow VTB second mortgages, but do not assume that every bank will agree to your deal with the seller. Remember to follow all the rules when securing a VTB mortgage on a property you are buying.

It does make a difference to the bank holding the first mortgage if you are securing secondary financing. Some banks will not even allow secondary charges behind their first mortgages. Some banks will, but they do have strict rules. The reasons for these strict rules are the highest percentage of mortgage defaults in Canada come from investors who have high leverage, and not much equity in their properties.

Understand when dealing with the banks and VTB mortgages you will have more roadblocks and you will need more time to secure financing. Always include as much time as you can to negotiate for your financing conditions, and add at least another week if you are securing a VTB on your purchases.

Currently, banks view VTB Mortgages on an application by application basis. Two of the chartered banks' policies regarding VTB's and LTV are stated below (maximum allowable LTV's):

| | | |
|-----------------|-----|----------------|
| TD Canada Trust | 75% | First mortgage |
| | 15% | VTB (max.) |
| | 10% | Down payment |

| | | |
|------------|-----|----------------|
| Scotiabank | 80% | First Mortgage |
| | 10% | VTB (max.) |
| | 10% | Down payment |

| | | |
|------|-----|----------------|
| MCAP | 80% | First Mortgage |
| | 5% | VTB (max.) |
| | 15% | Down payment |

| | | |
|-----------|-----|----------------|
| Concentra | 80% | First Mortgage |
| | 10% | VTB (max.) |
| | 10% | Down payment |

Other banks will allow VTB's. Contact your professional mortgage broker for a full list of banks that will view favorably to your accepted offer.

Tax Deferral on Vendor-Take-Back Mortgages

Courtesy of Navaz Murji-- www.realaccountant.com

There are tax advantages of a vendor take back mortgage. Unfortunately, to explain this to a seller can be a challenge. A Vendor Take Back Mortgage (VTB) allows the seller to defer a portion of their profits on their property, excluding their principal residence. The maximum amount of deferral is the lowest of:

- 1) 20% of the profit from the property in each of the years on a cumulative basis. That means in year 1 the maximum deferral is 80% of the profit, year 2-60%, year 3-40% and year 4-20%
- 2) It is a prorate portion of the monies you have collected from the sale. That means at the end of each year - amount of VTB outstanding at the end of the year / proceeds from the sale of the transaction X profit on the transaction

Why should a seller use this? It helps to manage your tax brackets. Sometimes when you sell a property, it will take you to a maximum tax bracket. If you are coming up for retirement, it would be a good idea to have your accountant to run up the numbers for you.

Hint: This is the seller's tax return that is impacted by this transaction. If you are a buyer, you will have a hard time because accountants do not like to advise their clients to hold a second mortgage, though they do not have the tools to understand the transaction.

The vendor can only defer a portion of the Capital Gains taxes if he takes a vendor take back mortgage.

How does this work? A detailed example

Well, you can elect to defer the taxes on the ratio of the portion of monies collected to the total capital gains over a maximum of 5 years with 20% of the profit in each year.

Let's walk through an example. Say you bought a property for \$100,000. This property was not your primary principal residence and hence, you have to pay taxes on the capital gains. You sell the property for \$250,000. You take back a mortgage of \$150,000 repayable in 10 annual payments of \$15,000 each.

In summary:

| | |
|-------------------------|------------|
| Cost is: | \$ 100,000 |
| Selling Price is: | \$ 250,000 |
| Capital Gain is: | \$ 150,000 |
| Initial Proceeds are: | \$ 100,000 |
| Vendor-Take-Back: | \$ 150,000 |
| 1/5 of Capital Gain is: | \$ 30,000 |
| Annual Payment is: | \$ 15,000 |

The amount of capital gains you can defer and have to take into income in each of the years is as follows:

In the year when you sell, you can defer lower of:

a) $\$150,000 / 250,000 \times 150,000 = \$90,000$

VTB / Total Proceeds X Capital Gain = Deferral

b) $\$150,000 \text{ (Capital Gain)} \times 80\% = \$120,000$

Therefore, in year one, the vendor's deferral will be \$ 90,000 and the vendor has to report \$60,000 in capital gain (only ½ of this is taxable).

In year 2, the deferral shall be the lower of:

a) $\$135,000 / 250,000 \times 150,000 = \$81,000$

VTB / Total Proceeds X Capital Gain = Deferral

b) $\$150,000 \text{ (Capital Gain)} \times 60\% = \$90,000$

In year 2, the vendor has to report \$9,000
(\$90,000 Balance to report - \$81,000)

In year 3, the vendor has to report:

$$\text{a) } \$120,000 / 250,000 \times 150,000 = \$72,000$$

VTB / Total Proceeds X Capital Gain = Deferral

$$\text{b) } \$150,000 \text{ (Capital Gain)} \times 40\% = \$60,000$$

In year 3, the vendor has to report \$21,000 (\$81,000 - \$60,000)

In year 4, the vendor has to report:

$$\text{a) } \$105,000 / 250,000 \times 150,000 = \$63,000$$

VTB / Total Proceeds X Capital Gain = Deferral

$$\text{b) } \$150,000 \text{ (Capital Gain)} \times 20\% = \$30,000$$

In each of years 4 and 5, the vendor has to report \$30,000.

This is a senior tax strategy and is for the benefit of the seller (whom will be holding the mortgage). Seek professional help when advising your VTB mortgage holder on any tax advice.

For more information please contact the author

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How to Ask for and Negotiate VTB Mortgages:

- Ask, Ask, Ask...
- Ask through your Buyer's agent
- Ask via cover letters (see next pages for examples)
- Ask via writing offers
- Write multiple offers
- Determine if seller needs all the funds for another transaction
- Determine the seller's motivations
- Use the REIN™ Vendor Motivation Checklist (see following pages)

Working with a Realtor to Negotiate VTB's:

- Realtor has to have experience dealing and negotiating VTB's
- Does your Realtor like working with Investors
- Gets an initial willingness to the idea from the seller
- Negotiates directly with the buyer or through another Realtor
- Have your cover letter and offers ready and clearly written, in plain, simple and easy to understand language.

REIN™ Vendor Motivation Checklist -- Determine How Willing A Vendor Is To Sell Their Property

Use a selection of the following questions to get a feeling on how motivated the vendor is. The more willing they are to answer these questions, the more motivated they are to sell. Your goal is not only to get the answers to the questions... but also to get an intuitive feel as to how you may wish to approach the offer or multiple offer strategy. The notes in brackets give you an idea of why you ask the question. The more motivated the vendor, the more options for you.

If you are working through a realtor, they can find out the answers to many of the key questions in this list. Many sophisticated investors like to write down their questions for their realtor to present to the vendor so clear lines of communications are made.

Property Address: _____ Date: _____

Vendor's Name: _____ Tel #: _____

Realtor's Name: _____ Tel #: _____

1. Why are you selling? (*initial motivation*)

2. How long has your property been for sale? (*has it become a prolonged problem?*)

3. How long have you owned the house/property? (*emotional attachment*)

4. What do you like most about it?

5. What do you like least about it?

6. Where are you planning to live after you sell your house? (*do they need cash or cash flow?*)

7. When do you have to move to your new place? (*time motivation*)

8. Do you have any other properties for sale? If so, where are they located? *(often vendors sell many at the same time)*

9. Do you need to consult a spouse or partner before you can legally accept an offer? *(Is this the decision maker?)* ☐ NO ☐ YES _____

10. How does your partner feel about selling? *(only if appropriate)*

11. Do you have specific plans for the money from the property? *(same question – different angle. Be careful of this question as it could be perceived as too probing)*

12. If I was to pay you all cash, and close quickly, what would be the least amount you'd accept? *(getting them to state a real number to start the negotiations)*

13. Would you like to receive regular monthly cash flow with an interest rate much higher than the banks will give you? *(set-up for Vendor Take Back Mortgage)*

14. Would you accept a full price offer? *(follow-up to #13. Full price but at your terms)*

☐ NO ☐ YES _____

15. Can I see it at 7:00 a.m. on Tuesday? *(setting YOUR time tests vendor motivation)*

☐ NO ☐ YES _____

Additional Notes & Thoughts:

NOTE: As you get more practiced, you will find that you will add your own questions to the list. Practice these so you are comfortable with presenting them. Turn your conversation into a discussion rather than a question and answer session. Build rapport. Treat the vendor as you would like to be treated.

Joe Buyer

1234 Main Ave.
Anytown ON K8R 3P6
123.456.7890
name@me.com

August XX, 20XX

Jane Seller
Anytown Ontario
K8R 3P6

Re: 123-45 Economic Fundamental Lane

Dear Jane:

It is with pleasure that I submit the following offer to purchase 123 – 45 Economic Fundamental Lane. As a veteran investor, I find it important to keep the lines of communication open between the vendor and the purchaser and trust that you'll find this quick cover note to be helpful.

I'd like to take the opportunity to point out a few items regarding the attached offer:

- ✓ I took a lot of time to carefully research the current market conditions and decided that my offer of **\$210,000** is very fair and reasonable. I am not trying to 'steal' or get an 'unbelievable deal' on your property but rather create a win-win scenario where I can take over and continue running this great revenue property you have created.
- ✓ I included a 'Vendor Financing' opportunity worth **\$21,000 at 10.00%** that will be secured against the property's title. Over the proposed 3 year term, this will provide you with about **\$6,300** worth of earned interest and this is honestly money that I'd rather give an investor like yourself rather than the bank.

After the conditions are met, I would also like to offer an extendable possession date. I offer this just in case there are any unforeseen surprises in your business or personal life that may affect the closing on this property. As such, we can extend the possession date by 30 days with 30 days written notice for up to 6 additional months!

I am certain that you will be extremely happy with this offer and I look forward to making this another smooth and hassle free transaction.

Sincerely,

Joe Buyer

P.S. If you have any additional questions or concerns, please feel free to submit them to my realtor on my behalf. We'll then be sure to get an answer back to you in a timely and efficient manner.

Joe Buyer

1234 Main Ave.
Anytown ON K8R 3P6
123.456.7890
name@me.com

August XX, 20XX

Jane Seller
Anytown Ontario
K8R 3P6

Re: 123-45 Economic Fundamental Lane, Offer #1

Jane:

Attached please find my offer to purchase the above-mentioned property. I would like to submit 2 offers. Below is a summary of my **FIRST OFFER** and conditions.

Subject to:

1. Subject to buyer's lawyer's approval 14 days after contract acceptance.
2. Viewing condominium documents.
3. Subject to Financing and Inspection.

Closing Date:

September XX, 20XX

Offer #1-

| | |
|---|-----------------------------|
| Initial Deposit. | \$ 1,000.00 |
| Additional Deposit (upon removal of conditions) | \$ 4,000.00 |
| New Mortgage funding | \$ 160,000.00 |
| Balance Owning (cash to close) | \$ 35,000.00 |
| TOTAL Purchase Price | <u>\$ 200,000.00</u> |

This is a very straight forward offer, If you have any questions please do not hesitate and contact me at the numbers below, or contact my Realtor directly.

Thanks in advance,

Joe Buyer
W 123.456.7890

Joe Buyer

1234 Main Ave.
Anytown ON K8R 3P6
123.456.7890
name@me.com

August XX, 20XX

Jane Seller
Anytown Ontario
K8R 3P6

Re: 123-45 Economic Fundamental Lane, Offer #2

Jane:

Attached please find my offer to purchase the above-mentioned property. I would like to submit 2 offers. Below is a summary of my **SECOND OFFER** and conditions

Subject to:

1. Subject to buyer's lawyer's approval 14 days after contract acceptance.
2. Viewing condominium documents.
3. Subject to Financing and Inspection.

Closing Date:

September XX, 20XX

Offer #2-

| | |
|---|-----------------------------|
| Initial Deposit. | \$ 1,000.00 |
| Additional Deposit (upon removal of conditions) | \$ 4,000.00 |
| New Mortgage funding | \$ 157,500.00 |
| Seller Financing (10% interest only, 3 year term, annual payments of \$2,100)*** | \$ 21,000.00 |
| Balance Owing (cash to close) | \$ 26,500.00 |
| TOTAL Purchase Price | <u>\$ 210,000.00</u> |

As you can see I have offered you full list price.

*** Seller Financing- *** There are ways that I can show you how you can defer your taxes over the next 5 years. If you have any questions please do not hesitate and contact me at the numbers below, or contact my Realtor directly.

Thanks in advance,

Joe Buyer
W 123.456.7890

Magic Words to Use When Negotiating VTB's

- Keep things in very simple language
- Do not talk too much (diarrhea of the mouth). You do not have to give a seminar. The more you talk, the more they ask, the more they get confused.
- You ask the questions, and answer questions with questions.
- Some Key questions to ask:
 - "Do you want all your equity right now?"
 - "Will you take some of your equity in monthly installments?"
 - "Would you like to receive regular monthly cash flow with an interest rate much higher than the banks will give you?"

5 Ways to Structure VTB Mortgages:

(in ranked order of most preferred from the Mortgagor's perspective)

- No interest - no payment, balloon at end of term only
- Principle payments only
- No payments, accruing interest
- Interest payments only
- Amortizing, principle plus interest

Variables to consider when negotiating or considering a VTB mortgage

- Maximum LTV you will go to?
- Properties' break-even cash flow numbers?
- Principle amount of the VTB mortgage
- Ranking of the VTB mortgage - 1st? 2nd? 3rd?
- Principle payments only?
- Rate of interest?

- Simple interest? Principle and interest? If so, amortization period?
- Term of the mortgage?
- Amount of payments?
- Payments to be paid when? Monthly? Quarterly? Yearly? All at the end of the term?
- When does the interest start accruing? One month after? 3 months after?
- Will you want to make lump sum payments in addition to your regular payments?
- Will you offer a bonus at the end of the term? i.e. lower interest rate, with a lump sum bonus at the end of the term?
- Post dated cheques to be provided?
- Additional collateral?
- Prepayment penalties?
- **Any Other Terms?**

Once you have agreement that the seller is open and willing to accommodate you, use the following Vendor Financing schedule to determine the variables of your specific deal.

At the end of the day, the terms you and your Mortgagee come to are subject to what you both agree to and negotiate. You as the investor want to get the best terms possible, but remember this one principle. In an economic sense, the higher risk justifies the higher reward a vendor financing deal may generate.

The more risky the deal (higher the LTV), the higher the cost of the funds (higher interest rate). For more specific strategies to negotiate your specific VTB's, refer to REIN™'s "*22 Secrets to Street Smart Negotiating*". In that guide, written by Don R. Campbell, there are 22 strategies to successfully negotiate your path to success.

Contract Of Purchase & Sale

Vendor Financing Schedule

Schedule To Contract Of Purchase & Sale Dated _____
Between _____ As Vendor (s) (the "Mortgagee")
And _____ As Purchaser (s) (the "Mortgagor")

This Schedule forms an integral part of the attached Contract Of Purchase & Sale. The terms of agreement regarding vendor financing (the "Mortgage") are as follows:

1. Principal Amount: \$ _____
2. Ranking Of Charge: 1st Mortgage 2nd Mortgage Other: _____
3. If other than a 1st Mortgage, list those charges that will rank ahead of the Mortgage:

4. Rate Of Interest: _____ %.
5. Amortization Period: _____, to commence: _____
6. Term: _____, to mature: _____
7. Payments of: \$ _____ to be paid:
 Monthly Quarterly Semi-Annually Annually
and are:
 Blended Principal & Interest Interest Only
and are to be made regularly commencing: _____
8. Interest charges are to be computed from: _____
9. Acceleration: Mortgage is to become due and payable at option of Mortgagee if
Mortgagor sells the property: Yes No
10. Mortgagor is to provide and maintain on an annual basis to the Mortgagee a
series of post-dated cheques: Yes No
11. Prepayment: The Mortgage may be prepaid at any time without notice, bonus or
penalty either in whole or in part.
12. Mortgage Terms: Prescribed Standard Mortgage Terms Other _____
13. Other Terms: _____

Witness to Purchaser's Signature (s)

Purchaser

Purchaser

Witness to Vendor's Signature (s)

Vendor

Vendor

Case Study-- Forms and Documents to complete your VTB mortgage

Vendor Takeback Mortgage

Estimated Cash Flow Analysis

123-45 Ave, Economically Fundamental Ln.

PURCHASE PRICE

\$170,000.00

Financial Breakdown

| | | |
|--|--------|--------------|
| Price | | \$170,000.00 |
| Down Payment | 15.0% | \$25,500.00 |
| First Mortgage (New Financing, Variable rate, 35 yr Amort.) | 75.0% | \$127,500.00 |
| Second Mortgage (10% interest only, annual payments) | 10.0% | \$17,000.00 |
| | 100.0% | |

Income

| | <u>Monthly</u> | <u>Annual</u> |
|-------------------------------|-------------------------|----------------------|
| Market Rent | \$1,300.00 | |
| Vacancy factor | 5.0% <u>-\$65.00</u> | |
| Income (1 st Year) | \$1,235.00 | \$14,820.00 |

Expenses

| | | |
|--|-------------------------|---------------------------|
| Property Taxes | <u>-\$95.00</u> | |
| Condo Fees | <u>-\$192.00</u> | |
| Repairs and Maintenance factor | 5.0% <u>-\$65.00</u> | |
| Property Management (% of Actual Rent) | 10% <u>-\$123.50</u> | |
| Insurance | <u>-\$20.00</u> | |
| Total Expenses | <u>-\$495.50</u> | <u>-\$5,946.00</u> |

Cash Flow Before Debt Payment

| | | |
|--|------------------------|--------------------------|
| | <u>\$739.50</u> | <u>\$8,874.00</u> |
| First Mortgage Payment *** (3.95% interest + principle)- 35 yr Amortization | <u>-\$558.27</u> | <u>-\$6,699.24</u> |
| Second Mortgage Payment (10%, interest only, annual payments) | <u>-\$141.67</u> | <u>-\$1,700.04</u> |

Est. Cash Flow

\$39.56

\$474.72

*** Actual mortgage rate is prime minus .6 - (\$431.61)

Monthly payment is set at 5 year fixed rate of 3.95% to maximize mortgage principal reduction.

CONTRACT OF PURCHASE AND SALE

PREPARED BY: Sutton Group - Seafair Realty DATE: October 4, 2010
ADDRESS: #550 - 9100 Blundell Road Richmond PC: V6B 1R2 PHONE: 604-273-3155
PER: Rory Sutter MLS® NO: F123456

| | |
|---|--|
| SELLER: <u>Jane Seller</u> | BUYER: <u>Joe Buyer</u> |
| SELLER: _____ | BUYER: _____ |
| ADDRESS: <u>#415 - 145 Chadwick Court</u> | ADDRESS: <u>2501 - 717 Jervis Street</u> |
| _____ | _____ |
| North Vancouver PC: <u>V7M 3K1</u> | Vancouver PC: <u>V6E 4L5</u> |
| PHONE: _____ | PHONE: _____ |
| RESIDENT OF CANADA <input checked="" type="checkbox"/> NON-RESIDENT OF CANADA | OCCUPATION: <u>Office Manager</u> |
| as defined under the <i>Income Tax Act</i> . | _____ |

PROPERTY:

123 - 4567 104th Avenue

| UNIT NO. | ADDRESS OF PROPERTY | |
|---|---------------------|--------------------|
| <u>Surrey, B.C.</u> | <u>V6E 4R2</u> | <u>012-345-678</u> |
| CITY/TOWN/MUNICIPALITY | POSTAL CODE | PID |
| <u>PL LMS888 LT 487 DL 185 LD36 UNDIV 105/34552 SHARE IN COM PROP THEREIN</u> | | |
| LEGAL DESCRIPTION | | |

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

- PURCHASE PRICE:** The purchase price of the Property will be _____
One Hundred Seventy Thousand
_____ DOLLARS \$ 170,000.00 (Purchase Price)
- DEPOSIT:** A deposit of \$ 9,000.00 which will form part of the Purchase Price, will be paid on the following terms:
UPON SUBJECT REMOVAL BY BANK DRAFT OR CERTIFIED CHEQUE.
The Buyer acknowledges that the deposit shall not earn interest.
All monies paid pursuant to this section (Deposit) will be paid in accordance with section 10 or by uncertified cheque except as otherwise set out in this section 2 and will be delivered in trust to Sutton Group - Seafair Realty
_____ 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.

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

INITIALS

PROPERTY ADDRESS

3. **TERMS AND CONDITIONS:** The purchase and sale of the Property includes the following terms and is subject to the following conditions:

SEE ATTACHED ADDENDUMS.

Each condition, if so indicated is for the sole benefit of the party indicated. Unless each condition is waived or declared fulfilled by written notice given by the benefiting party to the other party on or before the date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.

4. **COMPLETION:** The sale will be completed on November 30th, yr. 2010
(Completion Date) at the appropriate Land Title Office.
5. **POSSESSION:** The Buyer will have vacant possession of the Property at 2:00 p.m. on
December 1, yr. 2010 (Possession Date) OR, subject to the following existing tenancies, if any:
Vacant possession
6. **ADJUSTMENTS:** The Buyer will assume and pay all taxes, rates, local improvement assessments, fuel utilities 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 December 1, yr. 2010 (Adjustment Date).
7. **INCLUDED ITEMS:** The Purchase Price includes any buildings, improvements, fixtures, appurtenances and attachments thereto, and all blinds, awnings, screen doors and windows, 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, INCLUDING:
- Washer, dryer, fridge, stove, dishwasher, security system, all window coverings.
- Seller to provide Buyer with one garage door remote opener, two or more sets of keys for building entry doors, underground entry doors, storage room, bike room and locker [if locked], mailbox and unit keys.
- BUT EXCLUDING:** _____
8. **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 October 1st, yr. 2010
9. **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, existing tenancies set out in Clause 5, if any, and except as otherwise set out herein.
10. **TENDER:** Tender or payment of monies by the Buyer to the Seller will be by certified cheque, bank draft, cash or Lawyer's/Notary's or real estate brokerage's trust cheque.
11. **DOCUMENTS:** All documents required to give effect to this Contract will be delivered in registrable form where necessary and will be lodged for registration in the appropriate Land Title Office by 4 pm on the Completion Date.

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INITIALS

PROPERTY ADDRESS

- 12. TIME:** Time will be of the essence hereof, and unless the balance of the cash payment is paid and such formal agreements 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 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.
- 13. 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").
- 14. 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.
- 15. 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.
- 16. 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.
- 17. 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.
- 18. REPRESENTATIONS AND WARRANTIES:** There are no representations, warranties, guarantees, promises or agreements other than those set out in this Contract and the representations contained in the Property Disclosure Statement if incorporated into and forming part of this Contract, all of which will survive the completion of the sale.
- 19. 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 20, 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 the 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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INITIALS

CONTRACT OF PURCHASE AND SALE ADDENDUM

MLS® NO.: F123456

DATE: October 4, 2010

PAGE 5 of 8 PAGES

RE: ADDRESS: 123 - 4567 104th Avenue

Surrey, B.C.

V6E 4R2

LEGAL DESCRIPTION: PL LMS888 LT 487 DL 185 LD36 UNDIV105/34552 SHARE IN COM PROP THEREIN

PID: 012-345-678

FURTHER TO THE CONTRACT OF PURCHASE AND SALE DATED October 4, 2010

MADE BETWEEN Joe Buyer

AS BUYER, AND

Jane Seller

AS SELLER AND COVERING

THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:

THIS OFFER IS SUBJECT TO:

[1] A new first mortgage being made available to the Buyer within 7 business days of acceptance of this agreement, in the amount of \$127,500.00 at an interest rate not to exceed 3.95% per annum calculated half-yearly, not in advance, with a 35 - year amortization period, 5 - year term and repayable in blended payments of approximately \$558.27 per month including principal and interest (plus 1/12 of the annual taxes, if required by the mortgagee).

[2] Buyer, within 7 business days of acceptance of this agreement, approving the following documents with respect to information that reasonably may adversely affect the use or value of the strata lot, including any by-law, item of repair or maintenance, special levy, judgment or other liability, whether actual or potential:

- A current Form "B" Information Certificate attaching the strata corporation's rules, current budget and the developer's Rental Disclosure Statement, if any;
- A copy of the registered strata plan, any amendments to the strata plan, and any resolutions dealing with changes to common property;
- The current by-laws and financial statements of the strata corporation, and any section to which the strata corporation lot belongs;
- The minutes of any meeting held between the period from October 4, 2008 to October 4, 2010 by the strata council, and by the members in annual, extraordinary or special general meetings, and by the members or the executive of any section to which the strata lot belongs, including the minutes for at least two Annual General Meetings; and
- Copies of any engineer's or consultant's reports that pertain to the current condition of the building/complex within the last 5 years;
- Copies of any warranties affecting the building/complex and the work schedule to completion; and
- Copies of any special assessments levied against the Seller, including paid receipts and estimates of future levies.
- Copies of the most recent reserve fund report and plan.

ABOVE CONDITIONS ARE FOR THE SOLE BENEFIT OF THE BUYER

Immediately upon acceptance of this offer or counter-offer, the Seller will authorize the Seller's agent, to request, at the Seller's expense, complete copies of the documents listed above from the strata corporation or other source and to immediately, upon receipt, and in any event no later than 2 business days from such acceptance, deliver the documents to the Buyer's agent. The Seller warrants that they are providing complete copies of the strata documents.

X
WITNESS BUYER

SEAL Joe Buyer
PRINT NAME

X
WITNESS BUYER

SEAL
PRINT NAME

X
WITNESS SELLER

SEAL Jane Seller
PRINT NAME

X
WITNESS SELLER

SEAL
PRINT NAME

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MADE BETWEEN Joe Buyer

AS BUYER, AND

Jane Seller

AS SELLER AND COVERING

THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:

THIS OFFER IS SUBJECT TO (Continued):

[3] Buyer, within 7 business days of acceptance of this agreement, at the Buyer's expense, obtaining and approving an inspection report for the subject property satisfactory to the Buyer. The Seller will allow access to the property for this purpose on reasonable notice which may require more than one visit;

[4] Buyer, within 7 business days of acceptance of this agreement, receiving the most recent Certificate of Title in the Seller's possession and approving title to the property against any charge or other feature, whether registered or not, that reasonably may affect the property's use or value;

[5] Buyer verifying within 7 business days of acceptance of this agreement, that the Parking stall #146 associated with the strata lot is designated under the following arrangement: [Please initial the appropriate choice]

A] Limited Common Property _____ B] Assigned by the Strata Corporation _____ C] Part of the Strata Lot _____
D] Under a lease between _____ as landlord, and _____ as tenant or
under a license agreement between _____ as licensor [person giving the license] and
_____ as licensee [person taking benefit of license];

[6] Buyer verifying within 7 business days of acceptance of this agreement, that the storage locker #109 associated with the strata lot is designated under the following arrangement: [Please initial the appropriate choice] A] As a separate strata lot _____ B] As a part of the strata lot _____ C] The common property of the strata corporation _____ D] Limited common property _____ E] Under a short term exclusive use agreement or special privilege _____ F] Under a lease between _____ as landlord, and _____ as tenant or under a license agreement between _____ as licensor [person giving the license] and _____ as licensee [person taking benefit of license].

[7] Buyer, within 7 business days of acceptance of this agreement, obtaining approval for fire/property insurance, satisfactory to the Buyer;

ABOVE CONDITIONS ARE FOR THE SOLE BENEFIT OF THE BUYER

X
WITNESS

BUYER

SEAL Joe Buyer

PRINT NAME

X
WITNESS

BUYER

SEAL

PRINT NAME

X
WITNESS

SELLER

SEAL Jane Seller

PRINT NAME

X
WITNESS

SELLER

SEAL

PRINT NAME

CONTRACT OF PURCHASE AND SALE ADDENDUM

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FURTHER TO THE CONTRACT OF PURCHASE AND SALE DATED October 4, 2010

MADE BETWEEN Joe Buyer

AS BUYER, AND

Jane Seller

AS SELLER AND COVERING

THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:

THIS OFFER IS SUBJECT TO (Continued):

[8] Buyer, within 7 business days of acceptance of this agreement, approving the Property Disclosure Statement dated September 28, 2010 with respect to the information that reasonably may adversely affect the use or value of the property. If approved, such statement will be incorporated into and form part of this contract.

THIS CONDITION IS FOR THE SOLE BENEFIT OF THE BUYER





Should the Seller's agent not deliver the required documents listed in addendum pages 5 to 7 within the time specified than the Seller agrees to extend the dates of the Buyer's subject removal clauses by the number of days these documents are late in order to allow the Buyer sufficient time to review such documents and then order their property inspection. But in no case will they be delivered later than five days following acceptance of this agreement. If the date falls on a holiday or weekend it shall be the next business day.

The Seller will notify the Buyer before the completion date of any notice of a resolution to amend the by-laws or rules of the strata corporation, or the by-laws or rules of a section to which the strata lot belongs, or any amendment to such by-laws, that the Seller has not previously disclosed to the Buyer. The Seller will promptly deliver a copy of the relevant resolution or notice of resolution to the Buyer.

If a special levy is approved before the completion date, the Seller shall credit the Buyer for the entire portion of the special levy that the Buyer is obligated to pay under the Strata Property Act and the Seller hereby directs the Buyer's lawyer or notary public to hold back such credit from the sales proceeds and to remit it to the strata corporation.

The Seller represents and warrants that during the time the Seller has owned the property, the use of the property and the buildings and structures thereon has not been for the growth or manufacture of any illegal substances and that to the best of the Seller's knowledge and belief, the use of the property and the buildings and structures thereon has never been for the growth or manufacture of illegal substances. This warranty shall survive and not merge on the completion of this transaction.

The Buyer is satisfied with the total area of the home and measurements as viewed.

| | | | | |
|---------|--------|---|-------------|------------|
| X | |  | Joe Buyer | |
| WITNESS | BUYER | | | PRINT NAME |
| X | |  | | |
| WITNESS | BUYER | | | PRINT NAME |
| X | |  | Jane Seller | |
| WITNESS | SELLER | | | PRINT NAME |
| X | |  | | |
| WITNESS | SELLER | | | PRINT NAME |

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AS BUYER, AND

Jane Seller

AS SELLER AND COVERING

THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:





The Seller will take back a second mortgage, in a form acceptable to the Seller (which form will be provided by the Seller within 4 business days of acceptance of this agreement, and approved by the Buyer within 7 business days of acceptance of this agreement, in the amount of \$17,000 at a simple interest rate of 10%, calculated annually, not in advance, with a 3-year term and repayable in annual interest only payments of \$1700 per annum. At the end of the 3-year term the full balance of \$17,000 will be repaid by the Buyer to the Seller. Such second mortgage will provide that if the Buyer disposes or agrees to dispose of the property, the full balance will immediately become due and payable at the Seller's option.

The Seller will draw and register the mortgage at the Buyer's cost.

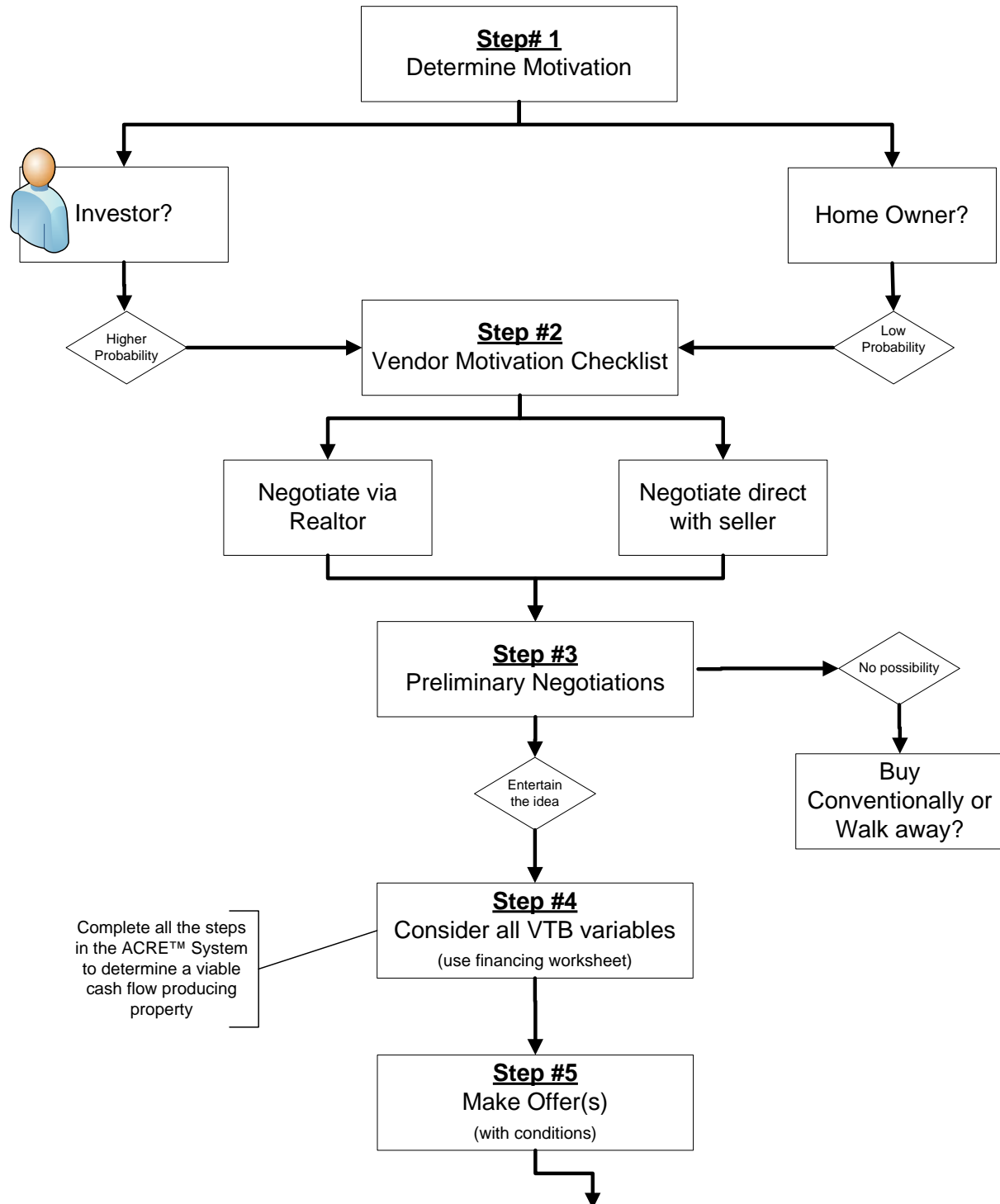
The Buyer hereby consents to the Seller obtaining a credit report on the Buyer. Subject to the Seller approving the Buyer's credit report within 2 business days of acceptance of this agreement. This condition is for the sole benefit of the Seller.

The Seller's second mortgage is to rank after the new first mortgage of no more than \$127,500 at 3.95% interest with a five year term.

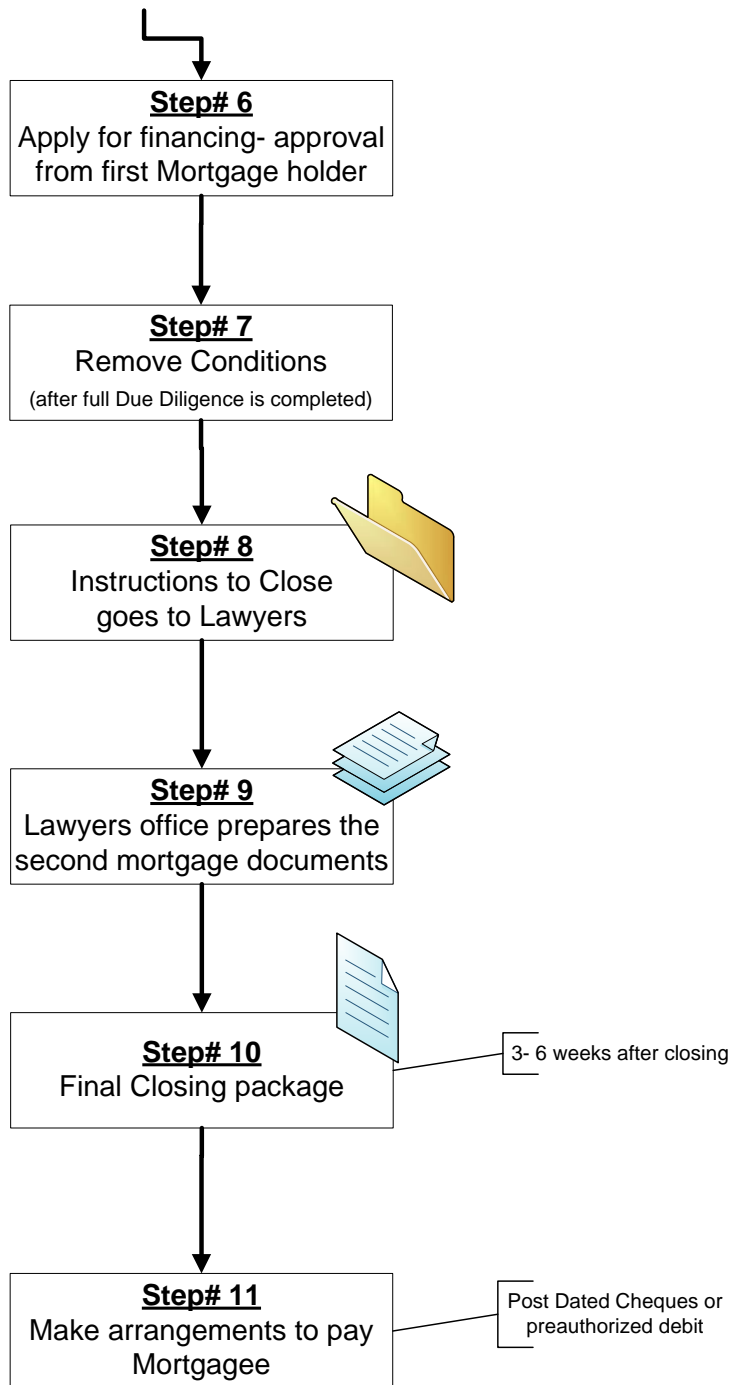
ABOVE CONDITIONS ARE FOR THE SOLE BENEFIT OF THE SELLER

| | | | |
|---------|--------|---|------------|
| X | |  Joe Buyer | |
| WITNESS | BUYER | | PRINT NAME |
| X | |  | |
| WITNESS | BUYER | | PRINT NAME |
| X | |  Jane Seller | |
| WITNESS | SELLER | | PRINT NAME |
| X | |  | |
| WITNESS | SELLER | | PRINT NAME |

Vendor Take Back Strategy Flow Chart



Vendor Take Back Strategy Flow Chart



A Final Word:

Vendor take back mortgages are instruments in which the rights and responsibilities of each party need to be spelled out.

Vendor financing deals are best left to the wordsmithing of lawyers who know the field. Protect a deal in which tens of thousands to hundreds of thousands of dollars will be at stake. Having these assets adequately protected is worth the legal fees, perhaps a few hundred or a few thousand dollars, depending on the value of the deal and the jurisdiction.

It certainly helps to get a little legal advice before you make any such deal. Afterwards, there is very little, if anything, that can be done to change things as changes require an amendment to the contract to be made in writing and that requires agreement between both parties.

Consult your legal professional if you have any doubts or don't understand what you're getting into. Remember, lawyers are much better at *keeping* you out of trouble than they are at *getting* you out of trouble, and it is usually a lot cheaper and easier, too.

As you have learned in this handout, there is no one way to structure your VTB mortgages, but there are some simple rules of engagement that if you follow and create win/win transactions with your sellers, you will soon find securing VTB mortgages a staple in your Real Estate Investing Tool kit.

Securing financing from your seller is just another tool that you can use as a sophisticated Real Estate investor. Use all the tools and support you have as a REIN™ member, because the more you learn, the more you earn.

If you have any further questions, please call our office at 1-888-824-7346 and one of the member support specialists will personally be able to help you.

Russell Westcott
REIN™ Canada