



## Agreement For Sale – When You Are The Seller

The Buyer and Seller versions of the agreement for sale are quite different. Make sure if you are buying, use the Buyer version. If you are selling use the Seller version which is much stronger than the Buyer's version.

MADE THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BETWEEN:

\_\_\_\_\_  
\_\_\_\_\_

(hereinafter called the "Seller");

of the First Part

- and -

\_\_\_\_\_  
\_\_\_\_\_

(hereinafter called the "Buyer");

of the Second Part

The Seller has agreed to sell to the Buyer (collectively, 'the parties') and the Buyer has agreed to purchase from the Seller, subject to the permitted encumbrances, the Encumbered Premises, at the times and in the manner set forth below, and subject to the stipulations and conditions contained in the Real Estate Purchase Contract between the parties, attached as Schedule "B", which stipulations and conditions are not superceded by this Agreement, and are, subject to any amendments expressed hereunder, incorporated hereinto by reference and form a part of this Agreement for Sale (hereinafter the "Agreement" or "Agreement for Sale");

NOW THEREFORE, in consideration of the premises and the sums to be paid and the covenants to be observed as set out in the Agreement, the Parties agree as follows:



## **1. Definitions and Interpretation**

This Agreement for Sale shall operate until all Indebtedness is paid in full to the Seller and all obligations whose performance is secured by this Agreement for Sale are performed, in the manner provided in this Agreement for Sale.

Unless there is something in the subject matter or context inconsistent therewith, in this Agreement the following expressions shall have the following meanings:

**"Agreement for Sale"** (sometimes referred to as 'the Agreement') means the covenants, agreements and provisions contained in this Agreement for Sale, and where the context permits includes any and all renewals, extensions and amendments thereto made in writing from time to time.

**"Business Day"** means a day of the week other than Saturday, Sunday or any other day which is a statutory or municipal holiday in the municipality where the premises are situate.

**"Condominium Act"** means the Condominium Property Act, R.S.A. 1980, c.C-22, as amended and/or restated from time to time.

**"Encumbered Premises"** (sometimes referred to as 'the premises') means the land municipally and/or legally described in paragraph 2, together with all buildings, structures and improvements built upon or made to the land from time to time, all fixtures described herein and all other appurtenances thereto.

**"Indebtedness"** means the aggregate of:  
the Principal Amount, ( sometimes referred to as the balance owing ), and all interest thereon and compound interest as provided in this Agreement, and any amount, cost, charge, expense and interest that has been added to the Indebtedness under the terms of this Agreement, and  
any other amount, cost, charge, expense and interest otherwise due and payable to the Seller hereunder or secured by this Agreement.

**"Interest Adjustment Date"** is calculated as one month before the first payment date.

**"Interest Rate"** means the rate of interest described in paragraph 2.1 hereof.

**"Land Act"** means the Land Titles Act, R.S.A. 1980, c.L-8, as amended and/or restated from time to time.



**"Lien Act"** means the Builders Lien Act, R.S.A. 1980, c.B-12, as amended and/or restated from time to time.

**"Maturity Date"** means the day of set out in paragraph 2.1.

**"Municipal Act"** means the Municipal Government Act, (Alta. 1994) c.M-26.1, as amended and/or restated from time to time.

**"Permitted Encumbrances"** means those financial and non-financial encumbrances and registrations of any sort whatsoever as further set out in Schedule "A" or in that copy of title attached as Schedule "A". Buyer may not assume any financial encumbrance unless written permission is granted by the lender.

**"Person"** includes an individual, partnership, joint venture, trust, unincorporated organization or any other association, corporation and government or any department or agency thereof.

**"Principal Amount"**, sometimes referred to as 'the balance owing', means the amount of the Unpaid Seller's Equity.

**"Taxes"** means all taxes, rates, assessments, levies, local improvement charges, school taxes, liens and penalties, municipal, local, parliamentary or otherwise that now are or may hereafter be imposed, charged or levied upon or with respect to the Encumbered Premises or any part thereof, and all taxes or charges levied in lieu thereof, and includes (without limitation) all municipal utilities and services rates and charges and other charges that may be added to the tax roll for or otherwise howsoever made a charge upon the Encumbered Premises under the Municipal Act.

**"Term"** means the term of this Agreement, being the period of time commencing on the Interest Adjustment Date and ending on the Maturity Date.

**"Transfer"** means any sale, transfer, assignment, conveyance or other disposition of the Encumbered Premises, in whole or in part, or of any interest therein.

**"Transferee"** means any buyer, transferee or assignee.



In the event that the Encumbered Premises are or become registered under the Condominium Act, or are proposed to be registered under the Condominium Act, it is agreed that the following definitions and provisions shall apply to this Agreement:

**"Bylaws"** means the bylaws from time to time in force for the Condominium.

**"Condominium Corporation"** means the corporation created by the registration of the Condominium Plan.

**"Common Expenses"** means the expenses of the performance of the objects and duties of the Condominium Corporation and any expenses specified as common expenses in the Bylaws, including without limitation reserve fund levies.

**"Condominium Plan"** means the condominium plan registered under the Condominium Act by which the Encumbered Premises became condominium units and associated common property interests.

**"Insurance Trustee"** means the insurance trustee (if any) appointed pursuant to the Bylaws.

Each obligation of the Buyer expressed in this Agreement, even though not expressed as a covenant, is deemed for all purposes to be a covenant made with the Seller.

## **2. The Variables of This Agreement Are:**

For ease of completion, this agreement is designed to have as many variables as possible in one place

- a) Legal Description: \_\_\_\_\_
- b) Municipal Description: \_\_\_\_\_
- c) Completion Date: \_\_\_\_\_
- d) Deposit Already Paid: \$ \_\_\_\_\_
- e) The Balance Owing, (sometimes referred to as the principal amount)  
\$ \_\_\_\_\_
- f) Balance of Cash on Closing: \$ \_\_\_\_\_
- g) Total Purchase Price: \$ \_\_\_\_\_



**The Details of the Balance Owing Are:**

Amount: \$ \_\_\_\_\_

Interest Rate: \_\_\_\_\_

Interest Adjustment Date: \_\_\_\_\_

Payment Amount: \$ \_\_\_\_\_

First Payment Date: \_\_\_\_\_

Frequency of Payments: \_\_\_\_\_

Maturity Date: \_\_\_\_\_

**The Parties' Addresses**

A. The Seller's address is: \_\_\_\_\_

\_\_\_\_\_

B. The Buyer's address is: \_\_\_\_\_

\_\_\_\_\_

**3. Encumbrance and Charge**

And for the better securing to the Seller the repayment in manner herein set out of the Principal Amount and interest (and all other obligations of the Buyer hereby secured) the Buyer hereby encumbers to the Seller all the Buyer's estate and interest in the Encumbered Premises.

**4. Interest**

The Principal Amount shall bear interest at the Interest Rate both before and after default, demand, maturity and judgment until paid.

**5. Covenant for Payment of Principal and Interest & Prepayment (If Any)**

Interest is calculated on the classic, semi-annual not-in-advance basis, just like a mortgage. This is just a starting point. Interest can be calculated anyway that the parties agree and this clause is modified accordingly.



The Buyer will pay to the Seller at the address noted herein or at such other place in Canada as the Seller may from time to time designate in writing in lawful money of Canada the Principal Amount with interest thereon, or on so much thereof as shall from time to time remain unpaid, at the rate (herein called the "Interest Rate") as set out above, calculated and compounded semi-annually, not in advance, both before and after default, demand, maturity and judgment, until paid, and computed from the date of the first advance of the principal as follows:

The Principal Amount with interest thereon, or on so much thereof as shall from time to time remain unpaid, at the Interest Rate calculated and compounded semi-annually from the Interest Adjustment Date, shall become due and be paid by equal consecutive monthly instalments as set out in paragraph 2.1(d) above from and including the date set out in paragraph 2.1(e) above, and on the monthly anniversary of the first payment date, each and every month in each and every year to and including the Maturity Date.

Here are three versions of payout provisions. Pick one and delete the other two. The applicable clause will be dictated by your financing schedule or by negotiation between the parties if the financing schedule has not been completed. Be careful to make sure the Buyer's obligation is at least equal to your Seller's obligation under any existing financial encumbrances. ↓

The Agreement shall be closed for the term for any extensions or renewals of the Agreement with no right of prepayment in whole or in part.

**OR**

Provided the Buyer is not in default under the terms of this Agreement, it shall have the right to prepay the whole of the Indebtedness at any time upon payment of a pre-payment charge equal to three months' interest on the unpaid seller's equity.

**OR**

Provided the Buyer is not in default under the terms of this Agreement, it shall have the right to prepay the whole of the Indebtedness at any time upon payment of pre-payment charges on any permitted financial encumbrances.

**6. Compound Interest**

All interest on becoming overdue, and any amount, cost, charge or expense that has been added to the Indebtedness under the terms of this Agreement, shall be treated (as to payment of interest thereon as aforesaid) as principal and shall bear compound interest at the Interest Rate, both before and after default, demand, maturity and judgment until paid, to be calculated and compounded semi-annually not in advance with rests half-yearly commencing six months from the Interest Adjustment Date and on the first day of every sixth month thereafter in each and every year until paid, and all such interest and compound interest shall be added to the Indebtedness and secured by this Agreement. If any of the monies hereby secured are not paid when due, the Buyer will, so long as any part thereof remains unpaid, pay interest thereon from day to day.



## **7. Application of Instalments**

The payment amount set out in paragraph 2.1(d) hereof are to be applied firstly to the interest component of the Indebtedness and the balance of the said payment amount shall be applied to the principal component of the Indebtedness; except, however, in the case of default by the Buyer the Seller may then apply any payments received during the period of default to any part of the Indebtedness in whatever order it may elect notwithstanding any contrary stipulation by the Buyer.

## **8. Covenant to Pay**

The Buyer covenants with the Seller that the Buyer will pay the Indebtedness to the Seller as and when provided herein without any deductions, set-off, abatement or counterclaim. If more than one Person signs this Agreement as Buyer, such Persons are jointly and severally liable to pay, perform and observe all of the Buyer's obligations herein.

## **9. Taxes**

It is Buyer's responsibility to pay the taxes. If you are more comfortable paying the taxes on behalf of the Buyer, then, we suggest you collect a monthly installment equal to 1/12 of the taxes along with the regular monthly payment of principal and interest. You can do the same for insurance or any other expenses that are the Buyer's responsibility.

The Buyer covenants with the Seller to pay the Taxes promptly as they fall due and before the date on which any penalty becomes chargeable thereon, and will forthwith provide the Seller with evidence satisfactory to the Seller of payment thereof provided that the Buyer shall not enter into any agreement with any taxing authority under which the due date for payment of Taxes is extended beyond the calendar year in which such Taxes would normally be due.

Without limiting or restricting any other covenant or obligation on the part of the Buyer under this Agreement, it is understood and agreed that the Seller, at its option, shall have the right to at any time and from time to time during the term of this Agreement to estimate the amount of the Taxes; and

The Buyer will pay to the Seller on each monthly installment due date hereunder, an amount estimated by the Seller to be sufficient to pay the Taxes as they become due and payable, and the Seller reserves the right to adjust, from time to time, the estimated monthly tax amount, based on the Taxes actually levied against the Encumbered Premises; and

So long as there is no default under this Agreement, the Seller shall from time to time make payments to the taxing authority when Taxes are due but the Seller shall be under no obligation to apply such payments more often than annually and without limiting the foregoing, the Seller shall not be required to pay any supplemental taxes that may be levied or assessed on the Encumbered



Premises or any other charges such as municipal utilities charges or service charges that may be added to the tax roll; and

If before any such sum or sums in the hands of the Seller shall have been so applied, there shall be default in respect of any payment of the Indebtedness, the Seller may, at its option, apply such sum or sums in or toward payment of such Indebtedness so in default.

Nothing herein shall create, with respect to any monies paid pursuant hereto, a relationship of trust between the Seller and the Buyer nor shall the Seller be accountable to the Buyer for any interest on any monies so received or for any penalties accruing from time to time on unpaid Taxes.

The Buyer will transmit to the Seller true copies of the assessment notices, tax bills and other notices affecting the imposition of Taxes forthwith upon receipt of the same by the Buyer.

## **10. Insurance**

If you were an owner occupier you probably have to change your insurance to a rental policy. You probably have to add the Buyer as a named insured.

The Buyer is responsible for all insurance costs and will, during the currency of this Agreement, keep insured or pay, within 7 days of receiving from the seller the insurer's billing statement, the Seller's costs of keeping insured against loss or damage by fire and such other perils as the Seller shall reasonably require, each and every building or structure now or hereafter erected upon the Lands, in the sum of the full insurable value thereof in such insurance office or company as is approved by the Seller, which approval may be arbitrarily exercised; and the Buyer will not do or suffer anything to be done whereby the said policy or policies may be vitiated and will pay all premiums and sums of money necessary for such purpose when due, and will assign and deliver over unto the Seller such policy or policies of insurance and pertinent receipt or receipts; if the Buyer insures the property, and the Buyer shall neglect to pay the said premiums or deliver such policy or policies, receipt or receipts, then the Seller may insure the said buildings or structures in the manner aforesaid and all sums so expended by the Seller, together with all costs and expenses incurred in connection therewith (including those as between solicitor and his own client on a full indemnity basis), shall be deemed to be secured hereby and charged upon the Lands and shall, without demand therefor, together with interest at the rate aforesaid calculated from the time or times of advancing the same, be repaid by the Buyer to the Seller.

In the case of condominium properties this obligation to insure shall include fire and such other peril coverage as the Seller may require and also third party liability coverage, all such coverage to extend to both the unit(s) and the common property, in such amounts and in such form as the Seller may from time to time require. Evidence of the renewal of such insurance shall be produced to the Seller at least Ten (10) days before the insurance then existing or any portion thereof shall expire, otherwise the Seller may insure as provided elsewhere in this Agreement.





All sums received by virtue of any insurance policy or policies may, at the option of the Seller, either be forthwith applied in or towards substantially rebuilding, reinstating and repairing the said buildings or structures, or applied in or toward payment of the last installment of principal falling due under this Agreement, and in case of a surplus in or toward payment of the installment next preceding in point of time of payment, and so on until the whole of the principal hereunder shall be paid, and in case of a surplus, then in payment, either totally or partially as the case might be, of the interest and other charges owing under this Agreement.

Important for you to know that your Buyer's tenant has an appropriate tenants policy ↓

If the buyer leases the premises to a tenant, the buyer must require the tenant to have and maintain tenant insurance coverage for the tenant's property on the premises. It is the responsibility of the tenant to insure the tenant's property on the premises against damage or loss to such property occasioned by fire, theft, and other perils, which cause such damage or loss. The tenant's policy shall waive all rights of subrogation against the buyer and his servants, agents and contractors. The buyer shall, on demand, provide a copy of his tenant's insurance policy to the seller.

Reimbursing of Seller's Cost of Insurance: It is agreed that seven (7) days prior to the date the same are due to be paid to the insurer (or agent thereof) of the building on the Lands or within seven (7) days of the Seller providing to the buyer a true copy of the insurer's (or agent's) billing statement setting forth the insurance premiums paid or payable on the part of the Seller, whichever is the later, the buyer shall pay or reimburse to the Seller as agreed between the parties either the whole of the premiums amount for the insured period or 1/12th of the yearly premium with each month's payment. The Seller's cost of insurance for any partial period shall be adjusted as between the parties as at that date.

#### **11. Waste, Maintenance, Repair and Inspection**

The Buyer covenants and agrees with the Seller that the Buyer will not permit waste to be committed or suffered on the Encumbered Premises and the Buyer will not remove or attempt to remove from the Encumbered Premises any building, structure or improvement forming part of the Encumbered Premises and the Buyer shall refrain from doing anything or allowing anything to be done which would result in an impairment or diminution of the value of the Encumbered Premises.

The Buyer will maintain such buildings, structures, or other improvement in good order and repair to the satisfaction of the Seller. The Seller may, whenever it deems necessary, enter upon and inspect the Encumbered Premises and review such records and information relating thereto and may require the Buyer, at its sole expense, to effect such repair or remediation of which the Buyer is notified by the Seller, or the Seller may effect such repairs or remediation as it deems necessary and the Buyer shall execute all consents, authorizations and directions that are required to permit any such inspection, review, repair or remediation, and the cost thereof and of such inspection, review, repair or remediation, together with interest thereon at the Interest Rate, shall be payable forthwith by the Buyer to the Seller and shall be added to the Indebtedness and secured by this Agreement.



If the Buyer shall neglect to keep the Encumbered Premises in good condition and repair, or shall commit or permit any act of waste on the Encumbered Premises (as to which the Seller shall be the sole judge) or shall attempt to remove any building, structure or improvement forming part of the Encumbered Premises, all monies hereby secured shall, at the option of the Seller, forthwith become due and payable, and in default of payment of same and interest, as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given to the Seller and all other remedies herein contained may be exercised forthwith.

For the purposes of this paragraph, waste includes the cultivation or processing of marijuana or other illegal substance.

## **12. Alterations**

The Buyer covenants and agrees with the Seller that the Buyer will not make or permit to be made any major alterations in or additions to the Encumbered Premises without the prior written consent of the Seller, which consent will not be unreasonably withheld.

## **13. Assignments of Rents and/or Leases**

Good clause for Seller and not in the Buyer's version.

As additional security for payment of the Indebtedness, the Buyer hereby assigns and sets over unto the Seller all rents and other sums payable from time to time under leases of the Encumbered Premises or any part thereof whether presently existing or arising in the future, together with the benefit of all covenants, guarantees and/or indemnities contained in the said leases or collateral thereto, in favour of the Buyer; provided that nothing herein contained shall be deemed to subordinate any of the rights or interest of the Seller to any such lease or to make the Seller responsible for the collection of such rents or any part thereof or for the performance or enforcement of any covenants, guarantee and/or indemnities contained in any such lease or collateral thereto, and that the Seller shall not, by virtue of these provisions or the collection of rents and other sums, be deemed a Seller-in-possession of the Encumbered Premises; and provided further that the Seller shall be liable to account for only such monies as may actually come into its hands by virtue of these provisions less proper collection charges and that such monies when so received by the Seller may be applied on account of the Indebtedness and,

pending application by the Seller, the same shall be deemed to form part of the Encumbered Premises and be subject to the charge hereby created and shall be held by the Seller as additional security for the repayment of the Indebtedness; and provided further that the Seller will not cause the tenants under the said leases or any of them to pay rent to the Seller unless and until default has occurred or has been deemed to have occurred under the provisions contained in this Agreement; and the Buyer covenants with the Seller to perform all of the lessor's covenants and obligations contained in all such leases and that it will not accept any prepayment of rent or other

sums owing under any such lease in excess of the final month's rent (if prepayment of the final month's rent is provided for in the lease), and will not amend or accept a surrender of any such lease without first obtaining the Seller's consent in writing.

The Buyer covenants and agrees to execute and deliver to the Seller from time to time forthwith on request by the Seller therefor assignments of leases and assignments of rents with respect to any and all leases and agreements to lease of all or any portion of the Encumbered Premises now or hereafter from time to time granted or entered into by the Buyer, all of such assignments to be held by the Seller as further security for payment of the Indebtedness. Such assignments shall be acceptable to the Seller as to form and content and shall include the benefit of all guarantees or indemnities and all other collateral security given or to be given in respect of the obligations of tenants under the said leases.

#### **14. Payments by Seller and Buyer**

Gives Seller control over payments and allows Seller his legal fees if he has to enforce this clause.

The Seller may pay any or all premiums of insurance and any or all Taxes, condominium fees or levies, rates, liens, utility and heating charges which shall from time to time fall due and be unpaid in respect of the Encumbered premises, and such payments, together with all costs, charges, legal fees and disbursements (as between solicitor and his own client on a full-indemnity basis), all appraisal costs and expenses, survey costs and expenses, costs of environmental reports and all other expenses whatsoever, which may be incurred in taking, recovering and keeping possession of the Encumbered Premises, and in negotiating this Agreement for Sale, investigating title and preparing and registering the Agreement and other documents related thereto and in payment of any other Indebtedness due under any other Agreement, encumbrance, lien or other charge ranking in priority or subsequent to this Agreement, and generally in any other proceedings taken in connection with or to realize or protect this security (including legal fees and disbursements on solicitor and his own client, full-indemnity basis and real estate commissions and other costs incurred in leasing or selling the Encumbered Premises or in exercising the power of entering, lease and sale herein contained) shall be, with interest at the Interest Rate, a charge upon the Encumbered Premises in favour of the Seller and secured by this Agreement. All amounts paid by the Seller as aforesaid shall be added to the Indebtedness hereby secured and shall be payable forthwith with interest at the Interest Rate and in default of such payment the full Indebtedness under this Agreement including all such amounts, shall immediately become due and payable at the option of the Seller, and all remedies, rights and powers conferred in this Agreement shall be exercisable.

In the event that there is a mortgage(s) or financial encumbrance(s) ('the mortgage(s)') registered against the encumbered premises, which mortgage(s) will not be discharged by the seller on execution of this agreement, then, the Seller promises that he will pay to the mortgagee(s) all payments due under any mortgage when the same falls due. If the Seller does not make all required payments when due, or if there are arrears, ('the payments'), the buyer may pay all payments



otherwise due under the agreement directly to the mortgagee(s), instead of to the seller, or if there is a default by the Seller the extent that a mortgagee(s) commences foreclosure proceedings, the buyer may also pay any amounts outstanding on the mortgage(s) and in which case any payment made by the buyer pursuant to this paragraph shall be deducted from amounts payable to the seller by the buyer under this agreement.

## **15. Acceleration**

Allows Seller to call the loan if Buyer is in default. Good for Seller and not in Buyer's version. Sellers still must launch legal action similar to a foreclosure.

In addition to the Seller's other rights under this Agreement, at law, in equity, or otherwise (including the right to require payment of the Indebtedness or any part thereof), the Indebtedness shall, at the sole option of the Seller, become immediately due and payable in each of the following events (sometimes herein referred to as a "default" or an "event of default"):

- A. default by the Buyer in the payment of all or any portion of the Indebtedness when due under this Agreement or any other indebtedness due under any other agreement, encumbrance, lien or other charge ranking in priority or subsequent to this Agreement;
- B. failure by the Buyer to observe or perform any other covenant or obligation contained herein or in any instrument providing additional security for the Indebtedness or any part thereof;
- C. breach of any other of the Buyer's covenants or other obligations under the provisions of any encumbrance, agreement, lien or other charge ranking in priority or subsequent to this Agreement;
- D. any representation or warranty made by or on behalf of the Buyer in connection with this Agreement, is untrue or incomplete;
- E. the Buyer or any Covenantor fails to observe or perform any of its obligations in any commitment letter or application for Agreement that may have been made;
- F. there has been a material adverse change in:
  - i. the financial position of the Buyer or any Covenantor,
  - ii. the Buyer's representations and warranties made in connection with this Agreement, or
  - iii. the Encumbered Premises.

## **16. No Merger on Judgment**

It is hereby agreed that the taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Seller's right to interest at the rate and times herein provided; and further that said judgment shall provide that interest



thereon shall be computed at the Interest Rate and in the same manner as herein provided until the said judgment shall have been fully paid and satisfied.

#### **17. Possession**

This clause and the next clause are in all mortgages and agreements for sale. However, the facts are that if the Buyer is in default the Seller still must take court action to enforce his rights. This comment applies to the default and remedies clause below.

The Buyer covenants and agrees with the Seller that upon default by the Buyer in the payment of the Indebtedness or in the performance or observance of any covenant, proviso or condition contained in this Agreement, the Seller may at its sole option and at such time or times as it may deem necessary and without the concurrence of any Person, enter into possession of the Encumbered Premises and may complete the construction thereof, repair any buildings, structures or improvements forming part of the Encumbered Premises, inspect, take care of, and lease the Encumbered Premises for such term and subject to such provisions as it may deem advisable or expedient (including providing any leasehold improvement the Seller deems necessary, in its sole discretion, to lease the Encumbered Premises), collect the rents of, and manage the Encumbered Premises as it may deem expedient, and all costs, charges and expenses incurred by the Seller in connection with the exercise of any such rights (including without limitation allowances for the time, service and effort of any officer of the Seller or other person appointed for the above purposes and including legal fee and disbursements as between solicitor and his own client on a full-indemnity basis) and shall, together with interest thereon at the Interest Rate, be added to the Indebtedness and secured by this Agreement and shall be forthwith payable by the Buyer to the Seller. Any lease made by the Seller while in possession of the Encumbered Premises shall continue for the full term and any permitted renewals thereof notwithstanding the termination of the Seller's possession.

#### **18. Default and Remedies**

In any event of default, as described herein, then, whether or not the Seller elects to accelerate payment as provided herein:

- A. It shall and may be lawful for, and the Buyer hereby grants full power, right and license to the Seller without notice to enter, seize and distrain upon the Encumbered Premises or any part thereof and by distress warrant to recover as rent reserved as in the case of demise of the Encumbered Premises, as much of the Indebtedness as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress, and in like cases of distress for rent;
- B. The Seller may, without notice, sell and convey the Encumbered Premises or any part thereof without entering into possession thereof on such terms of cash or credit or part cash and part credit or otherwise and by any method, including without limitation by public auction or by private contract, all as shall appear to the Seller most advantageous



and for such prices as can reasonably be obtained therefor, and in the event of a sale on credit or for part cash and part credit, whether by way of an Agreement for Sale or by a transfer and mortgage back, and the Seller shall not be accountable for or charged with any monies until actually received; that sales may be made from time to time of portions of the Encumbered Premises to satisfy interest or principal or other monies overdue or part thereof leaving the balance to run with interest payable as aforesaid; that the Seller may make any stipulations as to title or evidence or commencement of title or otherwise as the Seller shall deem proper and may buy in or rescind or vary any contract of sale of all or any part or parts of the Encumbered Premises and may resell without being answerable for loss occasioned thereby and for any and all such purposes may make and execute all agreements and assurances the Seller shall think fit; and that notwithstanding the power to sell and other powers, covenants and provisions in this Agreement contained or subsisting the Seller shall have and be entitled to the right of foreclosure of the equity of redemption in the Encumbered Premises as fully and effectually as if the power of sale and other powers, provisions and trust incidental thereto had not been contained in this Agreement;

- C. The Seller may send or employ an inspector or agent to inspect and report upon the value, state and condition of the Encumbered Premises and a solicitor to examine and report upon the title to the same;
- D. The Seller may, with or without entry into possession of the Encumbered Premises or any part thereof, and whether before or after such entry into possession, appoint a receiver or manager, or receiver and manager (herein called the "Receiver") of the Encumbered Premises or any part thereof and of the rents and profits thereof or of only the rents and profits thereof, and with or without security, and may from time to time by similar writing remove any Receiver with or without appointing another in his stead and, in making any such appointment or removal, the Seller shall be deemed to be acting as the agent or attorney for the Buyer. Upon the appointment of any Receiver or Receivers from time to time, the following provisions shall apply:
  - i. a statutory declaration of an officer of the Seller as to default under this Agreement shall be conclusive evidence thereof for the purposes of the appointment of a Receiver;
  - ii. every Receiver shall be the agent or attorney of the Buyer (whose appointment as such shall be revocable only by the Seller) for the collection of all rents and profits falling due and becoming payable in respect of the Encumbered Premises or any part thereof whether in respect of any tenancies created in priority to this Agreement or subsequent thereto, or otherwise;
  - iii. every Receiver may, in the discretion of the Seller, be vested with all or any of the powers and discretions of the Seller;
  - iv. the rights and powers conferred herein in respect of the Receiver are supplemental to and not in substitution of any other rights and powers which the Seller may have;



- v. the Seller may from time to time fix the remuneration for every Receiver, who shall be entitled to deduct the same out of revenue or sale proceeds of the Encumbered Premises;
  - vi. every Receiver shall so far as concerns responsibility for its acts or omissions, be deemed the agent or attorney of the Buyer and in no event the agent of the Seller;
  - vii. every Receiver shall have full power to manage, operate, amend, repair or alter the Encumbered Premises and the buildings and improvements thereon or any part thereof in the name of the Buyer for the purpose of obtaining rental and other income from the Encumbered Premises or any part thereof.
- E. The Seller may, at the Seller's option, proceed by action, suit or other proceeding, in any Court of competent jurisdiction, obtain a judgment, decree or order for specific performance, rescission, cancellation, or determination of this Agreement, or for any other relief the Court has power to grant for the said default, including an allowance for use and occupation by the Buyer which shall be at least equal to all monies paid under this Agreement;
- F. In any event of default, and if such default shall continue for fifteen (15) days after notice is given to the Buyer, by or on behalf of the Seller, of the Seller's intention to cancel this Agreement; then at the expiration of such fifteen (15) days, this Agreement shall, without further notice, become void and at an end, and all rights and interests hereby created or then existing in favour of the Buyer shall thereupon cease and determine, and the Encumbered Premises shall revert to and revest in the Seller free from all claim or interest of the Buyer or of any Person claiming by, through or under him, all without any further declaration of forfeiture, notice or act of re-entry and without any other act by the Seller to be performed and without the bringing or taking of any suit or legal proceedings and without any right on the part of the Buyer for any compensation for monies paid or for any other act or thing, and the Buyer shall and will forthwith deliver up to the Seller quiet and peaceable possession of the Encumbered Premises.

Upon cancellation or determination of this Agreement in any manner, all sums paid by the buyer on account of the Purchase Price and interest, and any such other sums paid by the Buyer, shall be forfeited to the Seller as liquidated damages for the Buyer's default;

None of the foregoing rights and remedies shall be exclusive of or dependent on any other such right or remedy and any one or more of such rights and remedies may from time to time be exercised independently or in combination.



**19. Transfer and Discharge**

There is no requirement in this clause for the Seller to provide a transfer of land at the time of closing but only when the Buyer pays off the agreement for sale.

On the Buyer paying the Purchase Price with interest as aforesaid in the manner aforesaid and all other sums that may be payable under this Agreement, the Seller will convey and assure and cause an estate in fee simple to the Lands to be conveyed and assured to the Buyer by a Transfer or Transfers under the Land Titles Act, subject to the conditions, reservations and exceptions contained in the original grant from the Crown and in the existing Certificate of the Title to the Lands and to the encumbrances as set out in the copy of title attached as Schedule "A" and to such other instruments or encumbrances as may be made, caused or suffered by or through the Buyer. The Seller will discharge any financial encumbrances as set out in Schedule "A" that are not the Buyer's or the responsibility of the Buyer or being assumed by the Buyer, but, only on receipt of the full balance of the Indebtedness. The Transfer or Transfers shall be prepared by the Seller's solicitors at the expense of the Seller. The Seller will provide the transfer on conditions wide enough for the Buyer to place a new mortgage if that is the Buyer's requirement. The Buyer shall be responsible for and pay the cost of registration of such Transfer.

Allows the Seller to rework his existing financing. Not in the Buyer's version. ↓

The Seller may deal with financial permitted encumbrances in any way, at any time whatsoever including replacement, re-advance or renewal, ("replacement") so long as, at the time of replacement, the principle balance of the replacement does not exceed the principle portion of the indebtedness as it was at the time of execution of this agreement.. The Buyer will postpone any interest he has in the encumbered premises to such replacement.

**20. Waiver**

It is understood and agreed that a waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof or of the obligations secured by this Agreement shall apply to the particular instance or instances and at the particular time or times only. No such waiver shall be deemed a continuing waiver, but all of the terms, covenants, conditions and other provisions of this Agreement and of the obligations secured thereby shall survive and continue to remain in full force and effect.

**21. No Assignment**

No assignment allowed unless Seller permits.

No assignment of the Agreement shall be valid unless the same be for the entire interest of the Buyer, and shall be approved in writing by the Seller at the expense of the Buyer. No agreement or relations between the Buyer and his assignee, or any other person acquiring title or interest from or through the Buyer shall preclude the Seller from the right to convey the Lands to the Buyer on the payment of the unpaid Principal and Interest, unless such assignment be approved in writing by the Seller as aforesaid. In the event this Agreement is assigned by the Buyer without the Seller's prior





written approval (which approval may be unreasonably withheld), the Seller may at the Seller's option declare the whole of the unpaid Principal with Interest thereon as forthwith due and payable.

These conditions shall not in any way be affected or changed by the Seller receiving payment of any portion of the Principal from any assignee not approved as aforesaid.

## **22. Extension Agreements and Renewals**

Leaves Seller in control of renewals.

It is understood and agreed that any agreement for the extension of the time for payment of the Indebtedness or any part thereof and any renewal of the term of this Agreement made at, before or after maturity, altering the term, Interest Rate (whether increased or decreased), the amount of the payments of principal, interest or other monies owing and secured by this Agreement or any other provision, covenant or condition hereof, whether made with the Buyer named herein or a subsequent owner of the Encumbered Premises (and whether or not consented to by the Buyer named herein or any assignee if made with a subsequent owner), need not be registered in any land registry office but shall be effectual and binding upon the Buyer and upon every subsequent Seller, encumbrancee or other person claiming an interest in the Encumbered Premises or any part thereof.

The Buyer shall, forthwith on request therefor by the Seller, provide or cause to be provided to the Seller, at the Buyer's expense, all such postponements and other assurances as the Seller may require to ensure or confirm the effect and priority of any such extension or renewal agreement. All extensions and renewals (if any) shall be done at the Buyer's expense (including, without limitation, payment of Seller's legal expenses on a solicitor and his own client full-indemnity basis).

No such extension or renewal, even if made by a successor or assign of or a successor in title to the Buyer named herein and without the consent of or notice to the Buyer named herein, shall in any way release or abrogate or render unenforceable the covenants or obligations of the Buyer named herein, or any Covenantor or any subsequent owner, which shall continue notwithstanding such extension or renewal and shall apply to the terms of this Agreement as renewed or extended and shall apply to the terms of any renewal or extension of the Indebtedness secured by this Agreement.

Nothing contained in this provision shall confer any right of renewal or extension upon the Buyer.



If Seller is okay with the renewal, this clause adds two percentage points to the interest rate and improves the Sellers spread between this rate and the rate in any mortgage renewal. This is a draft clause and can be negotiated in a number of ways. ↓

**THIS PARAGRAPH MUST BE SPECIFICALLY NEGOTIATED AND IS NOT VALID WITHOUT INITIALS OF SELLER AND BUYER.**

The Seller has a mortgage, (or mortgages), on the property and covenants with the Buyers, that if the Buyers are not in default, then, as the existing term of the mortgage matures, the Seller will, but only if the Lender offers a renewal of the mortgage to the Seller, provide the Buyers a copy of the Lender's Renewal Offer. The Buyers shall then choose a renewal term, advise the Seller in writing and the Seller will forthwith renew the mortgage on the term chosen by the Buyers.

The Seller covenants to extend the term of the Agreement for Sale for the same term as the Buyer has selected for the mortgage renewal. The interest rate under any extended Agreement for Sale will be two (2) percentage points higher than the interest rate set out in the said mortgage renewal offer and not a rate negotiated by the Buyer. In the event that the mortgage is paid in full prior to payout of the Agreement for Sale, then, for the purposes of further extensions, the Seller will provide the Buyers with a copy of the mortgagee(s) current posted interest rates. As set out above, on the Buyers picking a term from the current mortgage lender's then posted interest rates, the Seller will then continue to renew or extend with an interest rate of two (2) percentage points higher than the interest rate for the term chosen by the Buyers.

### **23. Set-Off**

In the event there is any existing financing which is the responsibility of the Seller to pay, and in the further event that the Seller is collecting from the Buyer monies from which the Seller would then pay such items as insurance, taxes, condominium fees and the like (collectively including financing "the items"), then the Seller hereby and pursuant to this document gives the Buyer permission to contact the payees of the said items and hereby directs the payees to provide the information to the Buyer on the status of the said individual accounts for the items.

The Buyer may, if the Seller is not paying same, pay the said items and set-off all payments against the Indebtedness.

### **24. Power of Attorney**

The Buyer hereby irrevocably appoints the Seller as attorney for the Purchase and further states that this Power of Attorney shall be valid for all purposes under the Land Titles Act of Alberta and which Power of Attorney is specifically granted by the Buyer to enable the Seller to execute a discharge of any Buyer's Caveat in the event that the Buyer abandons the property or is in default and remains in default for 45 days after notice of such default is given by the Seller to the Buyer.



**25. Method of Payment**

THE BUYER will make payments by post-dated cheques at least twelve consecutive cheques at a time or execute a pre-authorized withdrawal form, payment method to be Seller's choice. There is a \$50.00 fee for each dishonoured cheque or payment.

**26. Severability**

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Seller, be severable from and shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

**27. Notice**

Any notices or delivery required herein will be deemed completed when hand delivered, delivered by agent, or delivered electronically to the parties at the following email addresses:

- i. Buyer: \_\_\_\_\_
- ii. Buyer: \_\_\_\_\_
- iii. Seller: \_\_\_\_\_
- iv. Seller: \_\_\_\_\_

or as the parties may later designate in writing. Notice or delivery for a corporate party shall be to its registered office in Alberta.

**28. Successors and Assigns**

Every reference in this Agreement to a party hereto shall extend to and include the heirs, executors, administrators, successors and assigns of such party. This Agreement shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

**29. Governing Law**

This Agreement shall be interpreted and governed according to the Law of the Province of Alberta.

The Buyer, and the heirs, executors, administrators and assigns of the Buyer, hereby waive the provisions of Section 41 of the Law of Property Act, and all the amendments thereto and made subsequent and all substitutions for such provisions.



**30. Acknowledgement**

The Buyer acknowledges receipt of a true copy of this Agreement.

**31. This Agreement may be executed in counterparts.**

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year set out above.

SIGNED, SEALED AND DELIVERED     )  
by the above named and in the     )  
presence of:                             )

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Witness

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Seller

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Witness

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