

AGREEMENT OF PURCHASE AND SALE FOR NEW CONSTRUCTION

(HOUSE AND LAND)

Approved by the Nova Scotia Real Estate Commission (NSREC) for use by licensees under the *Nova Scotia Real Estate Trading Act*.
The NSREC is the regulatory body for real estate in Nova Scotia.

Total # of pages in this
Agreement including
all Schedules:

Agreement of Purchase and Sale Schedule(s): is/are attached and form(s) part of this Agreement.

- | | | |
|---|--|---|
| <input type="checkbox"/> Equipment | <input type="checkbox"/> Sale of Buyer's Property (SOBP) | <input type="checkbox"/> HST Rebate |
| <input type="checkbox"/> Plans and Builder's Specifications | <input type="checkbox"/> Restrictive Covenants | <input type="checkbox"/> Water and Septic |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Other: _____ | |

The Buyer _____
of _____

offers to buy from the Seller _____

the property known as (civic address/ lot #) _____

PID(s) _____ in the County of _____ Province of Nova Scotia (the Property),

at a purchase price of _____

dollars (\$) _____ CDN, including HST) on the following terms:

1. Deposit

1.1. The Buyer submits _____ dollars
(\$ _____ CDN) on or before
the _____ day of _____, 20_____, payable to (payee):

in trust, as a deposit to be held pending completion or termination of this Agreement and to be credited towards the purchase price on completion. Balance of purchase price to be paid on closing or as otherwise stated in this Agreement. If the deposit is not delivered as specified, the Seller shall be at liberty to terminate this Agreement. If a deposit is being paid electronically, it is deemed received when it is available for deposit to the payee's trust account.

1.2. It is understood and agreed that if the Buyer does not complete this Agreement in accordance with the terms thereof, the Buyer shall forfeit the deposit, in addition to any other claim which the Seller may have against the Buyer for the Buyer's failure to complete. If the deposit is being returned to the Buyer, in accordance with the terms of this Agreement, it shall be done without interest or penalty (unless otherwise specified). The release of the deposit from the brokerage trust account is subject to NSREC By-law 611:

- a) At the time a transaction fails to complete, the broker holding the trust funds must advise the parties to the transaction that the brokerage is obligated to hold the trust funds in the trust account until:
- i) the parties to the transaction agree, in writing, as to how the money is to be disbursed; or
 - ii) the brokerage is ordered, by a court of competent jurisdiction, to disburse the trust funds in a specified manner.

1.3. The Buyer and Seller agree that any deposit held in trust by the Brokerage per clause 1.1, that is in excess of the remuneration (including HST) due to that Brokerage on closing of the transaction, shall be transferred to the Seller's lawyer's trust account once conditions unrelated to title have been met. These funds shall remain in the Seller's lawyer's trust account until closing.

2. Closing and Conveyance

2.1. This Agreement shall be completed on or before the _____ day of _____, 20_____, (the closing date). Upon completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided as follows: _____

- 2.2. The Seller shall deliver the Property to the Buyer free from accumulation of rubbish, tools, scaffolding and surplus materials and shall leave the Property in a clean state.
- 2.3. All lands, buildings, fixtures and all other property being purchased hereby shall remain at the risk of the Seller. The Seller shall be responsible to keep the Property insured until closing. In the event of damage to the Property, the Buyer, having been advised of the insurance policy details, may either agree to accept the proceeds of the insurance and complete the purchase, or may terminate this Agreement and the deposit shall be returned to the Buyer.
- 2.4. Interest, rentals, leases, taxes, rates and fuel on the premises are to be adjusted to the closing date. The cost of municipal improvements, betterment charges and capital charges for utility or municipal services completed as of the date of this Agreement, whether billed or not, are to be paid by the Seller on or before the closing date unless otherwise stated.
- 2.5. The conveyance of the Property, which is the subject of this Agreement, shall be by _____ Deed, drawn at the expense of the Seller, to be delivered on payment of the purchase price on the closing date. The Property is to be conveyed free from encumbrances, except for any easements, registered restrictions or covenants that do not materially affect the enjoyment and use of the property.

OFFER DATE: _____ / _____ / _____

BUYER'S INITIALS: _____ / _____ SELLER'S INITIALS: _____ / _____

PROPERTY: _____

BUYER: _____

3. Seller's Obligations

3.1. The Seller shall build the house on the lot and carry out all work in a good and workmanlike manner in accordance with:

- a) the terms and conditions contained herein;
- b) the plans and specifications;
- c) the National Building Code of Canada;
- d) all relevant subdivision requirements, restrictive/protective covenants and building restrictions;
- e) all relevant requirements contained in the Seller's agreement of purchase and sale for the purchase of the lot from the developer, if applicable; and
- f) all local, municipal, provincial, and other applicable building by-laws and regulations.

3.2. The Seller shall (choose either a or b):

a) Provide a copy of the existing Location Certificate showing the final location of the footing.

OR

b) Supply a Location Certificate in the Buyer's name which shall show the final location of the footing.

The Seller provides no warranty as to the completeness or accuracy of the Location Certificate.

3.3. The Seller shall provide the Buyer or the Buyer's Agent with a copy of the following on or before the _____ day of _____, 20____ (check the applicable boxes):

- Proposed plan and/or approved plan of subdivision showing easement(s), if applicable
- Equipment Schedule, if not attached, and all related contracts
- Final plans and specifications, if not attached
- Restrictive/protective covenants, if not attached
- Other: _____
- Other: _____

4. Buyer's Conditions

4.1. This Agreement is subject to the Buyer, at the Buyer's expense, securing, conducting or reviewing the following on or before the _____ day of _____, 20____ (check the applicable boxes):

- Proposed plan and/or approved plan of subdivision showing easement(s), if applicable
- Equipment Schedule, if not attached
- Final plans and specifications, if not attached
- Restrictive/protective covenants, if not attached
- Financing
- Insurance
- Other: _____
- Other: _____

The Buyer shall provide the Seller or the Seller's Agent, on or before _____ a.m./p.m. Atlantic Time on the date specified above, with Form 408 confirming that all conditions identified in this clause are satisfied and now waived. If the Buyer fails to provide the required form this Agreement shall be deemed terminated. If the Buyer determines, prior to the condition date, that they are not satisfied the Buyer may terminate this Agreement. The deposit shall be returned to the Buyer subject to the applicable NSREC By-laws.

5. Site Inspection

5.1. The Buyer or authorized representatives shall have the right to inspect the work of the Seller at the Property at an agreed time, but shall not unduly impede the progress of the work and such inspection visits shall be subject to any stipulations of the Seller and the Seller's insurer. The Buyer enters the construction site at their own risk.

6. Change Orders

6.1. Any additions, deletions or changes to the materials and/or labour agreed to using Change Order (form 442), or a form supplied by the Seller shall become part of this Agreement.

7. Delays

7.1. The closing date may be affected if delays occur which are caused by unfavorable weather, strikes, fire, availability of materials and/or labour, decisions of the Buyer or any other causes beyond the reasonable control of the Seller. The Seller shall provide details for the cause of the delay(s) and provide their best estimate to the Buyer of the effect that such delays shall have on the Seller's work and the closing date. No such extension shall be made for the aforesaid delays unless the Buyer is advised by the Seller, in writing, within seven (7) days of the occurrence of the delay.

8. Pre-Occupancy Inspection

8.1. Prior to closing, the Buyer and the Seller shall establish a date for the pre-occupancy inspection of the Property. The inspection shall include a walk through of the Property and identification of any deficiencies. The Buyer may be assisted by an inspector of their choice at the buyer's expense.

9. New Home Warranty

9.1. The Property shall be covered by a _____ year Warranty issued by:

(Builder or Warranty company).

Where applicable, the Certificate of Possession form provided by the Seller shall be executed by all parties.

10. Holdbacks

10.1. **Occupancy Permit:** The Seller shall provide the Buyer with a Final Inspection Report and an Occupancy Permit on or before the closing date. The Buyer shall be entitled to hold back funds in an amount agreed to by the parties, until such time as the Occupancy Permit is issued. The funds shall be released when the Occupancy Permit is provided.

10.2. **Deficiencies:** At or immediately following the pre-occupancy inspection, deficiencies shall be agreed to in writing together with an amount to be held, by the Seller's lawyer, for each deficiency item, and a date by which each deficiency item shall be completed. The Buyer agrees to co-operate with the Seller to complete the deficiencies. The itemized dollar amount designated for each deficiency item shall be released to the Seller upon verification that the deficiency items have been completed.

Should a deficiency item not be completed by the date designated for completion, the holdback for that deficiency item shall, at the Buyer's option, be released to the Buyer, or held pending completion of the deficiency item by a newly agreed completion date.

The Buyer acknowledges that deficiency items are treated separately from warranty items that arise post-closing. The Buyer shall not obstruct or withhold the release of monies held back for deficiency items pending the completion of warranty items.

OFFER DATE: _____ / _____ / _____

BUYER'S INITIALS: _____ / _____ SELLER'S INITIALS: _____ / _____

PROPERTY: _____

BUYER: _____

10.3. Builder's Lien: The Seller and the Buyer agree to withhold from the proceeds of sale, the appropriate amount under the *Builder's Lien Act* (the "Act"), which sum shall be held in trust by the Seller's lawyer. The funds shall be released in accordance with the Act upon confirmation that no liens, attributable to the Seller, have been registered against the Property.

The Buyer agrees to instruct their lawyer to conduct a sub search of title on the first business day after the release date of the holdback funds. The Buyer's lawyer shall promptly notify the Seller's lawyer, in writing, of any liens that have been registered preventing release of the holdback. If no such notification is received by the Seller's lawyer within one (1) business day following the release date, the Seller's lawyer shall be at liberty to carry out a sub search of title and, if no liens have been registered, release the holdback funds to the Seller. Written confirmation that the sub search did not disclose any liens and funds have been released to the Seller shall be promptly provided to the Buyer's lawyer.

11. Lot Grading

11.1. On or before closing, the Seller shall provide written confirmation to the Buyer that the requirements of any applicable municipal by-law, relating to lot grading of the Property, have been complied with. Failing which, this shall be considered a deficiency and addressed in accordance with the holdback conditions of this Agreement.

12. Additional Provisions

13. Lawyer Review

13.1. This Agreement is subject to the review by both the Buyer's and Seller's lawyers, acting reasonably with respect to wording and content within the Agreement. This review shall be deemed to have been acceptable to both parties, unless the other party or their Agent is notified to the contrary, in writing, on or before the _____ day of _____, 20_____.

If notice to the contrary is received, either party shall be at liberty to terminate this Agreement and the deposit shall be returned to the Buyer.

14. Property Migration

14.1. If the property needs to be migrated to the Land Registration System prior to closing, the Seller agrees to do so, at the Seller's expense, at least seven (7) days prior to closing. If the Seller fails to do so, either party shall be at liberty to terminate this Agreement and the deposit shall be returned to the Buyer.

15. Title Investigation

15.1. This Agreement is subject to the Seller's lawyer, at the Seller's expense, providing the Buyer's lawyer with the PID(s) for the property within ten (10) business days of acceptance of this offer.

If the migration process requires the assignment of additional PID(s), they shall be provided to the Buyer at the time of notification that the migration is complete.

15.2. The Buyer, at the Buyer's expense, shall be allowed five (5) business days to investigate title to the Property after receipt of the PID(s) or, if the Property has not been migrated as of the date of this Agreement, five (5) business days after receiving notification that the migration is complete.

If within that time frame any valid objection to title is made, in writing, to the Seller and which the Seller is unable or unwilling to remove and which the Buyer shall not waive, this Agreement shall become null and void and the deposit shall be returned to the Buyer.

15.3. Any covenants and access, service or similar easements that affect the parcel, as a benefit or a burden shall be, prior to closing, registered on the title by the Seller's lawyer. An updated description shall be provided to the Buyer's lawyer not less than two days before closing.

16. Miscellaneous Provisions

16.1. Any tender of documents to be delivered or money payable may be made upon the Seller or the Buyer or any party acting on their behalf. Money paid, subsequent to the deposit, shall be by lawyer's trust cheque, certified cheque, electronic transfer or their equivalent, drawn on a chartered Canadian Bank, Trust Company or Credit Union.

16.2. All representations given by the Seller contained in this Agreement shall survive the closing unless otherwise stated in this Agreement.

16.3. Time shall, in all respects, be of the essence in the Agreement. In the event of a written agreement of extension, time shall continue to be of the essence.

16.4. The Seller and the Buyer agree to be bound by offers and counter offers and related documentation that may be transmitted electronically and that reproductions of the signatures therein including electronic signatures, shall be treated as originals.

16.5. No amendment to the terms of this Agreement shall be effective unless it is in writing and signed by all parties.

16.6. If there is conflict or discrepancy between any provision added to this Agreement and any provision in the standard printed portion hereof, the added provision shall supersede the standard printed provision.

16.7. This Agreement shall be read with all changes of number and gender required by the context.

16.8. This Agreement shall be governed by the laws of the Province of Nova Scotia and the Seller, Buyer and the Brokerage(s) shall submit to the jurisdiction of the Courts of the Province of Nova Scotia for the resolution of any disputes that may arise out of this Agreement.

16.9. This Agreement shall be for the benefit of and be binding upon the parties, their respective heirs, executors, administrators, successors and assigns.

16.10. Business days are Monday–Friday, excluding statutory, provincial and civic holidays in the Province of Nova Scotia.

OFFER DATE: _____ / _____ / _____

BUYER'S INITIALS: _____ / _____ SELLER'S INITIALS: _____ / _____

PROPERTY: _____

BUYER: _____

17. Agency Relationship

Complete 17.1 and 17.2 OR 17.3:

17.1. The Seller acknowledges that they do / do not have an agency relationship with either:

_____ Brokerage

and / or _____ Brokerage Representative or Designated Agent

17.2. The Buyer acknowledges that they do / do not have an agency relationship with either:

_____ Brokerage

and / or _____ Brokerage Representative or Designated Agent

OR

17.3. The Buyer and the Seller acknowledge that they are in a transaction brokerage relationship and have signed a Transaction Brokerage Agreement with:

_____ Brokerage

and / or _____ Brokerage Representative or Designated Agent

_____ Brokerage Representative or Designated Agent

18. Time for Seller's Response

This offer shall be open for acceptance until _____ a.m./p.m. Atlantic Time on the _____ day of _____, 20_____.

Signed, sealed and delivered in the presence of:

In Witness whereof I have hereunto set my hand and seal:

Witness

Buyer

SEAL

Date

Witness

Buyer

SEAL

Date

19. Seller's Response

CHOOSE ONE OF THE FOLLOWING:

- I hereby **accept** the above offer and agree to sell on the terms set forth.
- I hereby confirm this offer was presented and **rejected**.
- I hereby confirm having read and understand this offer and have **prepared a Counter Offer**.

Signed, sealed and delivered in the presence of:

In Witness whereof I have hereunto set my hand and seal:

Witness

Seller

SEAL

Date

_____ a.m./p.m.
Atlantic Time

Witness

Seller

SEAL

Date

_____ a.m./p.m.
Atlantic Time