

RESIDENTIAL REAL ESTATE PURCHASE CONTRACT

This Contract is between:

JACK SMITH and BARBARA SMITH

THE SELLER

And:

JOHN BARKER

THE BUYER

PROPERTY

1.1 The Property is the Land, Buildings, Unattached and Attached Goods located at (municipal address):

1505 Ridge Drive, SW, Calgary, Alberta

1.2 The legal description of the Property is:

Plan 7301051 Block 45 Lot 10 Condo Plan _____ Unit No. _____ Parking Unit _____

Other _____

1.3 The unattached Goods (chattels) described as follows:

Washer, dryer, dishwasher, fridge, stove, 2 garage door openers

1.4 All Attached Goods (fixtures) except for:

Dining room chandelier

1.5 Unless otherwise agreed in writing, title will be free and clear of all encumbrances, registrations and obligations except the following:

- those implied by law;
- non-financial obligations now on title such as easements, utility rights-of-way, covenants and conditions that are normally found registered against property of this nature and which do not affect the salability of the Property;
- homeowners association caveats, encumbrances and similar registrations; and
- those items which the Buyer agreed to assume in this Contract.

TRANSACTION

2.1 The Buyer and the Seller agree to act cooperatively, reasonably, diligently and in good faith.

2.2 Other than the Deposits, the Buyer shall pay the Purchase Price by certified cheque, lawyer's trust cheque, bank draft or other agreed value as follows:

\$10,000.00	Initial Deposit
\$ _____	Additional Deposit
\$ _____	Assumption of Mortgage (approximately principal balance)
\$150,000.00	New Financing
\$ _____	Seller Financing
\$ _____	Other Value
\$40,000.00	Balance Owing (subject to adjustments)
\$200,000.00	Total Purchase Price
<i>(Unless otherwise agreed in writing, the Purchase Price includes any applicable Goods and Services Tax (GST).)</i>	

DEPOSITS

- 3.1 All Deposits shall be delivered in trust to: **Dow & Company, #14 Prestwick Gardens SE, Calgary, Alberta T2Z 3V3**
- 3.2 The Initial Deposit shall be deposited no later than the second Business Day following the day that his Contract is signed and accepted by both the Buyer and the Seller as per clause 15.1 (final acceptance) of this Contract. Additional Deposits shall be deposited no later than the second Business Day following the day the Additional Deposit is received.
- 3.3 Any Additional Deposits shall be delivered as follows:
- 3.4 Unless otherwise agreed in writing, no interest on the Deposits shall be paid to the Seller or the Buyer.
- 3.5 The Deposits shall be held in trust by the Seller's lawyer for both the Seller and the Buyer and shall be:
- forthwith refunded to the Buyer if this offer is not accepted, a condition is not satisfied or waived (as per clause 8.4) or the Seller fails to perform this Contract; and
 - forfeited to the Seller if this offer is accepted and all conditions are satisfied or waived and the Buyer fails to perform on this Contract.
- 3.6 If there is a dispute between the Seller and the Buyer as to entitlement to the Deposits then:
- the lawyer holding the Deposit shall review the circumstances, determine entitlement and pay the money to the party who is entitled to the Deposit;

CLOSING

- 4.1 Unless otherwise agreed in writing, this Contract will be completed, the Purchase Price will be fully paid and vacant possession will be available by: noon on the **31st** day of **December, 2004** (the "Completion Day"), subject to the rights of the existing tenants, if any. If the Completion Day is not a Business Day, then conveyancing matters and payment of the Purchase Price will be completed by 12 noon on the preceding Business Day. Possession will be available on and adjustments will be made as of the Completion Day.
- 4.2 Items which are normally adjusted for, such as real estate taxes, amortized local improvement levies, utilities, rents, security deposits, statutory interest on security deposits, mortgage interest and homeowners association fees will be assumed by the Buyer and will be adjusted as of noon on the Completion Day. All adjustable items are the Seller's responsibility for the entire Completion Day.
- 4.3 If the Seller agrees in writing to accept late payment of the Purchase Price, then the Buyer will pay Interest to the Seller calculated daily from and including the Completion Day to (but excluding) the day the Seller is paid in full. Payment received after noon on any day will be payment as of the next Business Day. Interest means the prime lending rate of the Province of Alberta Treasury Branches at the Completion Day plus 3%.
- 4.4 The Seller's lawyer may use the Purchase Price to pay out all mortgages, registrations and other financial obligations that are the Seller's obligation to discharge. Within a reasonable period of time after the Completion Day, the Seller's lawyer will provide the Buyer's lawyer with evidence of all discharges including, where required, a certified copy of the certificate of title.
- 4.5 If the Buyer has not paid all of the Purchase Price, then the Seller may give the Buyer possession upon reasonable terms.
- 4.6 When the Buyer obtains possession, the Property will be in substantially the same condition as it was in when this Contract was accepted.
- 4.7 The Seller and the Seller's lawyer will deliver normal closing documents to the Buyer or the Buyer's lawyer upon reasonable conditions consistent with the terms of this Contract. The Buyer must have a reasonable period of time before the Completion Day to confirm registration of documents at the Land Titles Office and to obtain the advance of proceeds for any New Financing and Other Value.
- 4.8 If the Seller fails to deliver the closing documents according to section 4, then payment of the Purchase Price and Interest will be postponed until the Buyer has received the closing documents and has a reasonable period of time to register them.
- 4.9 The Seller will pay the costs to prepare the closing documents; to prepare, register and discharge any Seller's caveat based on this Contract; and to provide the documents described in clause 4.12.
- 4.10 The Buyer will pay the costs to prepare, register and discharge any Buyer's caveat based on this Contract; and to register the transfer of land.
- 4.11 If the Property is rented and the Buyer is not assuming the tenancy, then the Seller is responsible for all costs related to ending the tenancy and to giving vacant possession to the Buyer.
- 4.12 At least ten (10) Business Days prior to the Completion Day, the Seller will provide the Buyer, regarding the matters described in clause 6.1, a real property report reflecting the current state of improvement on the Property, with evidence of municipal compliance or non-conformance. The Buyer and the Seller may agree in writing to obtain a policy of title insurance, regarding the matters in clause 6.1, to either replace or supplement the real property report.

INSURANCE

- 5.1 The risk of loss or damage to the Property shall lie with the Seller until the Purchase Price is paid according to the terms of this Contract. If loss or damage to the Property occurs before the Seller is paid the Purchase Price, then any insurance proceeds shall be held in trust for the Buyer and the Seller according to their interests in the Property.

WARRANTIES AND REPRESENTATIONS

- 6.1 The Seller represents and warrants to the Buyer that:
- the Seller has the legal right to sell the Property,

- b. the Attached Goods and Unattached Goods are in normal working order;
- c. the Seller is not a non-resident of Canada for the purposes of the Income Tax Act (Canada);
- d. the current use of the Land complies with the existing municipal land use bylaw;
- e. the Buildings and other improvements on the Land are not placed partly or wholly on any easement or utility right-of-way and are entirely on the Land and do not encroach on neighbouring lands, except where an encroachment agreement is in place; and
- f. the location of Buildings and other improvements on the Land complies with all relevant municipal bylaws, regulations or relaxations granted by the appropriate municipality prior to the Completion Day, or the Buildings and other improvements on the Land are "non-conforming buildings" as that term is defined in the Municipal Government Act (Alberta).

6.2 All of the warranties contained in this Contract and any attached Schedules are made as of and will be true at the Completion Day, unless otherwise agreed in writing.

6.3 Any action relating to a warranty or representation in this Contract must be started within one (1) year from the Completion Day. 6.4 The Seller and the Buyer each acknowledge that, except as otherwise described in this Contract, there are no other warranties, representations or collateral agreements made by or with the other party, the Seller's brokerage and the Buyer's brokerage about the Property, any neighbouring lands, and this transaction, including any warranty, representation or collateral agreement relating to the size/measurements of the Land and Buildings or the existence or non-existence of any environmental condition or problem.

ADDITIONAL TERMS

7.1 All time periods, deadlines and dates in this Contract shall be strictly followed and enforced. All times will be Alberta time unless otherwise stated.

7.2 This Contract is for the benefit of and shall be binding upon the heirs, executors, administrators and assigns of the individual parties and the successors and assigns of corporate parties.

7.3 All changes of number and gender shall be made where required.

7.4 Portions of this Contract may be enforced even if the Contract has ended.

7.5 The following Schedules form part of this Contract:

____ Financing Schedule ____ Property Schedule

7.6 Additional terms of sale (if any): _____

CONDITIONS

8.1 The Buyer's Conditions are:

a. The Buyer will apply and be approved for New Financing as follows:

- loan amount \$150,000.00 (plus mortgage insurance fee, if required), interest rate not to exceed _____ (_____%) percent a year calculated semi-annually not in advance
- a term of not less than _____ years
- payment of \$ _____
- payments to include taxes ____ Yes ____ No

The Buyer will pay for all costs associated with the New Financing including the costs to prepare and register any New Financing Security.

Before 9 p.m. on **September 15, 2004** (the "Condition Day").

b. This Contract is subject to the Buyer's approval of a Property Inspection as per attached Property Inspection Schedule. ____ Yes **X** No

Before 9 p.m. on _____ (the "Condition Day").

c. This Contract is subject to the Buyer's Condition regarding Condominium Documents, as per attached Property Schedule.

____ Yes **X** No

Before 9 p.m. on _____ (the "Condition Day").

d. This Contract is subject to the sale of the Buyer's home, as per attached "Sale of Buyer's Home" Schedule. ____ Yes **X** No

Before 9 p.m. on _____ (the "Condition Day").

e. Additional Buyer's Conditions:

Satisfactory home inspection

Before 9 p.m. on **September 15, 2004** (the "Condition Day").

8.2 The Seller's Conditions are:

Before 9 p.m. on _____ (the "Condition Day").

- 8.3 Unless otherwise agreed in writing, the Buyer's Conditions are for the sole benefit of the Buyer and the Seller's Conditions are for the sole benefit of the Seller.
- 8.4 The Buyer and the Seller may unilaterally waive or satisfy their Conditions by giving a Notice to the other party (the "Notice") on the stated Condition Day.
- 8.5 Provided that the Buyer or the Seller, as the case may be, uses reasonable efforts to satisfy the Condition(s), if the Notice has not been given on the stated Condition Day, then this Contract is ended.

REMEDIES/DISPUTES

- 9.1 If the Seller or the Buyer fails or refuses to complete this Contract according to its terms, then the other party may pursue all available remedies. The Seller's remedies include keeping the Deposits and claiming additional damages. Both the Seller and the Buyer can claim reasonable costs including legal fees and disbursements on a solicitor/client full indemnity basis.
- 9.2 If the Seller must restore title to the Land, enforce a lien against the Property or regain possession of the Property due to the Buyer's default, then the Buyer will pay the Seller's reasonable costs including legal fees and disbursements on a solicitor/client full indemnity basis.

ADVICE/DISCLOSURE

- 10.1 This Contract is intended to create binding legal obligations. The Seller and the Buyer should read this Contract carefully and are free to obtain legal advice before signing.
- 10.2 The Buyer may wish to obtain an independent property inspection and verify the measurements of the Property.
- 10.3 Unless there is a dual agency or another written agreement, the Seller's brokerage represents the Seller as Seller's Agent and does not have a fiduciary relationship with the Buyer, and the Buyer's brokerage represents the Buyer as Buyer's Agent and does not have a fiduciary relationship with the Seller.
- 10.4 The Seller and the Seller's brokerage have signed a Listing Contract. The Seller directs the Seller's lawyer to honour the terms of the Listing Contract and in particular to close the transaction according to the irrevocable assignment of the Purchase Price contained in the Listing Contract.
- 10.5 This Contract may be signed and sent by fax and this procedure will be as effective as signing and delivering an original copy.

DEFINITIONS

11.1 In this Agreement:

- a. Business Day means a day when both the Land Titles Office and the Schedule "A" chartered banks are open for business
- b. Buyer's Agent means the licensed brokerage (including its broker, all associate brokers and agents) who represents the Buyer
- c. Commission means the sum owing from the Seller for services rendered under the Listing Contract plus GST.
- d. Completion Day is the day described in clause 4.1.
- e. Deposits mean the Initial Deposit plus all Additional Deposits.
- f. Seller's Agent means the licensed brokerage (including its broker, all associate brokers and agents) who represents the Seller.
- g. Unless otherwise agreed in writing means a written agreement by letter or otherwise between the Seller or the Seller's lawyer and the Buyer or the Buyer's lawyer.

REPRESENTATIVES/NOTICE

- 12.1 the Representatives identified in clause 12.2 represent the Seller and the Buyer.
- 12.2 or the purposes of giving and receiving any notice referred to in this Contract, all notices must be in writing and must be delivered to the address or faxed to the number described below. A notice sent or received by a Representative is proper notice for the purposes of this Contract.

Seller's Information:

Seller's Name: Jack and Barbara Smith

Seller's Address: 1505 Ridge Drive SW, Calgary, Alberta

Phone: 403-555-1212 Fax: 403-555-1213

Buyer's Information:

Buyer's Name: John Barker

Buyer's Address: 1232 Hastings Street, Calgary, Alberta

Phone: 555-1212

Fax: 555-1213

OFFER

13.1 The Buyer offers to buy the Property for the Purchase Price according to the terms of this Contract.

13.2 This offer/counter offer shall be open for acceptance in writing until 9:00 p.m. on the 2nd day of September, 2004.

SIGNED AND DATED at Calgary, Alberta at 4:00 p.m. on the 1st day of September, 2004.

Witness

Buyer

Witness

Buyer

ACCEPTANCE

14.1 The Seller accepts the Buyer's offer and agrees to sell the Property for the Purchase Price according to the terms of this Contract.

SIGNED AND DATED at Calgary, Alberta at 5:00 p.m. on the 2nd day of September, 2004.

Witness

Seller

Witness

Seller

FINAL ACCEPTANCE

15.1 This Contract was made (final acceptance) at 5:00 p.m. on the 2nd day of September, 2004.

Initials of the Person(s) who signed last _____

CONVEYANCING

Seller's Lawyer Kristine J. Dow, Dow & Company

Lawyer's Address #100A – 9705 Horton Road SW, Calgary, Alberta T2V 2X5

Lawyer's Phone 403-252-5600 Fax 403-451-1511

Buyer's Lawyer _____

Lawyer's Address _____

Lawyer's Phone _____ Fax _____