

SUMMARY OF [Agreement of Purchase and Sale](#)

As an instructor for the Ontario Real Estate Association (OREA) and a Real Estate Lawyer since 1984, I have taken some time to simplify the OREA [Agreement of Purchase and Sale](#) basing the summary on course material and my personal experience. The numbers correspond with the same numbered paragraphs as they appear on the Agreement.

Please take note that the following is only meant to be a guideline. If you have any questions please contact my office.

- **1. CHATTELS INCLUDED:** If you have any doubts as to whether or not an item is either a chattel or fixture, do not take any chances and include it in the agreement. List all non-fixtures included in the purchase price in the blank. Items normally included are refrigerators, stoves, washer, etc.
- **2. FIXTURES EXCLUDED:** List those fixtures which are not to be included (e.g. dining room chandelier, other lighting fixtures, etc.)
- **3. RENTAL ITEMS:** Rental items to be assumed by the Buyer are to be listed here. The most common one is the hot water tank; however, sometimes the furnace is rented also.
- **4. IRREVOCABILITY:** Irrevocable time during which the Agreement may be accepted.
- **5. COMPLETION DATE:** The closing date is specified here. Please try to close on a day other than the few days at the beginning, middle and end of the month; it's always extremely busy at the Real Estate Law Firm. Most transactions close between 2:00 p.m. and 4:00 p.m.. Therefore, keys will not usually be received until late afternoon and perhaps as late as 5:00 pm depending on several factors. Furthermore, it may be wise for them to have their moving truck rentals come only in the afternoon to avoid having them sit for hours at a cost
- **6. NOTICES:** The Seller's agent is appointed to take all notices from the concerned parties. Only if the Co-operating Broker represents the interests of the Buyer in this transaction, the Buyer appoints the Co-operating Broker as Agent for the purpose of giving and receiving notices. Once the fax number is written in these blanks it is acceptable to send faxes as notice and they are considered as "notice given" when the fax is sent. Beware of the consequences of receiving faxes on evenings and weekends i.e. you may think the offer was not accepted yet the fax reply may be at the office.

- 7. **GST:** GST will either be included in or in addition to the purchase price. GST will not be applicable on most house resales, however; beware of vacant land resale and new construction.
- 8. **TITLE SEARCH:** The acting lawyer for the Buyer is given until the inscribed date to do the title search. Beware of conditional agreements, such as conditional upon obtaining financing. If they are not well thought out, the financing condition could end up expiring after the time prescribed for the title search. Sometimes the agent forgets to complete this section; therefore, by law, the lawyer will have 30 days. Make certain you leave enough time for the lawyer to conduct the searches, otherwise the lawyer may not be able to protect the Buyer against title defects. Generally speaking, 15 to 20 days should be enough. If a valid title problem is found by the Buyers' lawyer which the Seller cannot or will not satisfy, the Buyer may terminate the transaction and the deposit will be returned.

You also must describe the present use of the property - again beware of what you write as you could be held responsible if incorrect.

- 9. **FUTURE USE:** The seller makes no representation as to the future use of the property except what is stated in the agreement
- 10. **TITLE:** The Buyer must accept registered rights-of-way, subdivision agreements, municipal agreements, easements, restrictions or covenants that are intended to run with the land, provided that they have been complied with and do not substantially affect the real property. If the Seller has received work orders prior to the date of acceptance and the Seller refuses to comply with the work order, the Buyer may terminate the Agreement.

The Seller warrants compliance with all zoning, and building by-laws, regulations and statutes or other restrictions affecting the subject property. If the property does not comply, the Buyer can terminate the Agreement up to two days prior to the closing.

- 11. **CLOSING ARRANGEMENTS:** When the transaction is registered by way of electronic registration, the lawyers agree to hold the documents and/or monies and/or keys until the required documents are registered and until the lawyers have confirmed the registration and release of such documents and/or monies and/or keys.
- 12. **DOCUMENTS AND DISCHARGE:** The Seller shall provide to the Buyer, if requested, all documents of title and survey in his possession or control at least one day prior to expiration of the time given for title search. This does not necessarily mean a Building Location Survey or a plot plan. It means what the Seller has in his hands at the time of acceptance. Therefore if the Seller does not have a BLS or plot plan then he does not

have to have one done. It becomes the responsibility of the Buyer to get one if he needs one.

The Seller may be required to complete a Statutory Declaration as to the facts of possession not disclosed by the search of title.

Mortgage discharges: The Buyer will accept the Sellers' solicitor undertaking to discharge institutional mortgages (Bank, Trust, Caisse). Private mortgages must be discharged on or before closing.

- 13. **INSPECTION:** The Buyer states that he has inspected the property and upon signing this paper it is a binding agreement.
- 14. **INSURANCE:** The house is at the Sellers' risk until closing. If substantial damage occurs, the Buyer may elect to accept insurance proceeds and close or terminate the Agreement.
- 15. **PLANNING ACT:** The Seller shall comply with the requirements of the Planning Act. For example, in the case where land may have been severed, it would have to have been done with the proper governmental consent.
- 16. **DOCUMENT PREPARATION:** The Transfer/Deed is to be prepared by the Seller, and any Mortgage to be given back will be prepared by the Sellers' solicitor at the Buyer' expense with registration cost and sheriff's certificate to be paid by the Buyer.
- 17. **RESIDENCY:** The Seller warrants that he is a resident of Canada. If the Seller is not a resident of Canada and the Buyer does not do the proper inquiries, the Buyer may be responsible for the Seller's tax under the Income Tax Act.
- 18. **ADJUSTMENTS:** Adjustments for fuel, electricity, rentals, mortgage interest, taxes, local improvement and water rates all are to be adjusted to the date of closing. Taxes and services on the on the date of closing are the responsibility of the Buyer.
- 19. **TIME LIMITS:** It is important to close the transaction on the date of closing. if closing does not occur it is a breach of contract and there are legal consequences.
- 20. **TENDER:** If either the Seller or Buyer is not prepared to close on the date of closing, the party who is ready may present himself to the lawyer of the other side and show that he is ready and willing to close and tenders the necessary money and documents to prove it.

- 21. **FAMILY LAW ACT:** The Seller shall comply with the Family Law Act. For example in certain circumstances, the spouse may have to consent to the transfer.
- 22. **UFFI:** The seller warrants that he did not insulate the building or the property during the time he was the owner with Urea Formaldehyde Foam Insulation (UFFI) and to his knowledge UFFI is not present in the subject buildings.
- 23. **CONSUMER REPORTS:** The Seller can obtain a credit report on the Buyer if the Seller is assisting with financing. Make certain that you draft the Vendor Mortgage Take Back with the option for the Seller to refuse to finance the Buyer in the event that the Buyer has a bad credit report.
- 24. **AGENCY:** The brokers involved in this transaction represent the parties as set out in the Confirmation of Representation.
- 25. **AGREEMENT IN WRITING:** Any provision added to this agreement supersedes the standard pre-set portion. Do not alter the standard form. The Agreement constitutes the entire Agreement.
- 26. **SUCCESSORS AND ASSIGNS:** This agreement shall be binding upon heirs, executors, administrators, and successors. In other words, if the Seller or Buyer dies, the heirs are obligated to complete the transaction.