



Alberta Real Estate Association
Residential Purchase Contract
Guide to Supplementary Clauses
May 2026

The Alberta Real Estate Association (AREA) has created this document to assist its members in drafting terms, conditions, and warranties to meet the needs of buyers and sellers when preparing and negotiating the Residential Real Estate Purchase Contract.

At no time are the provided clauses to be thought of as required wording. The clauses are to be considered as examples of acceptable contract language.

AREA accepts no liability for the use of information in this document and is not responsible in any way for the adequacy, sufficiency, accuracy and/or suitability of any of these clauses. Each transaction is unique, and real estate agents and brokers are encouraged to seek legal advice when in doubt about the appropriate wording for the specific situation at hand.

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USER GUIDE

Making Changes to Standard Forms

Negotiated and agreed to changes to the AREA contract will sometimes conflict with one of the pre-printed clauses in the original template agreement. The contract speaks to this likelihood by including a clause that addresses this specifically. One of the clauses in the General Terms section of the Purchase Contract indicates that “contract changes that are agreed to in writing will supersede the pre-printed clauses”. This means that if a clause of term is added that conflicts with a pre-printed term in the contract, the added clause will supersede or replace the pre-printed term. If the conflict is known, it is often best practice to also strike out the term that no longer applies. This will assist with the clarity of the contract terms. All changes must be initialled by both the seller and the buyer.

Conditions

A condition is a part of a contract, in which the entire contract is conditional on that condition being satisfied or waived by a specific date. This date is the ‘Condition Day’. If not waived, the entire contract is undone, and the parties are returned to their pre-contract position. For example, no obligation will exist between the parties, any deposit is returned etc. If the condition is satisfied or waived, then the contract moves forward, fully binding on the parties. When adding a condition to a contract, you are making the contract “subject to” some event happening. Be as specific as possible. Both the details of the condition and the date the condition is to be met (Condition Day) are important since time is of the essence.

Terms

Contract terms establish what the seller and buyer expect in the transaction. Unlike a condition which, if unsatisfied or not waived, will end the contract, a term that is not met may not automatically end the contract. However, it may attract legal liability for the party that didn’t meet the term they agreed to meet. The wronged party can take action to decide what type of breach has occurred and what the suitable remedies might be. It is important to note that terms in an unconditional contract that are not met by one or more parties fall outside of the scope of “real estate advice” and into the realm of “legal advice” since the legal contract is potentially in breach. The parties need to understand this at the appropriate time and be directed to seek legal counsel.

If a term is required to be performed on an earlier date than the Completion Day, specify the details clearly. Most disputes arise from unclear and/or unmet expectations.

Warranties

The terms “representations and warranties” in the Purchase Contract are meant to indicate statements of fact that the seller or buyer is promising, or warranting, to be true. Representations and warranties are to be true as of the Completion Day.

Capitalized Words

Where a word is capitalized in this document, it reflects how the word appears in the Purchase Contract and indicates a defined term. For example, section 1.1 of the Purchase Contract indicates “The Property is”, followed by a description of the real estate. This defines what the real estate is, and from that point forward in the contract, the real estate is referred to as the “Property”.

Legal Advice

The result of all the activities a REALTOR® performs to help a client buy or sell real property is the formation of a Purchase Contract, a legal document that establishes the parties' rights and obligations. Realtors® and consumers work closely together to reach the point of condition removal and a firm transaction that it is natural for consumers to go to their Realtor® when something goes sideways in the transaction and they need advice on the severity or next steps of what they consider a breach. At this moment, Realtors® must clearly articulate that contract disputes are a legal problem, not a real estate problem and promptly direct the consumer to seek independent legal advice.

Realtors® must understand the value of advising the client seeking legal advice at all material times in the transaction. Additionally, Realtors® should not be shy about consulting their broker regularly throughout the transaction and, when advisable, seeking legal advice on contract terms and conditions, regardless of whether those terms and conditions are found in this guide. Every transaction is different, and a well-crafted, situation-specific term or condition will save time and money for all parties and Realtors® involved.

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Alarm System

System to be Removed

The seller, at the seller's expense, will buy out the existing monitoring or other agreement for the alarm system currently located in the Property and have the system removed before Completion Day.

The seller will repair any damage caused by the removal of the alarm system.

Practice Tip: Unless the buyer is aware of and comfortable with the possibility that the damage may not be repaired, it is best practice to include elements of a Holdback Clause (discussed further in this document) as part of the consideration here.

System to Remain in the Property but Not Monitored

The seller, at the seller's expense, will buy out the monitoring or other agreement for the alarm system currently located on the Property before Completion Day.

The alarm system will remain intact but will no longer be monitored.

System and Monitoring to be Assumed by the Buyer

The buyer will assume the alarm system and any existing agreement for the system, including monitoring charges, as of Completion Day.

Back-Up Offers

Seller is Bound to Another Offer

For use in situations where the seller is currently bound to a Purchase Contract and has been presented with another that they would like to accept. Insert a seller's condition clause 8.3, as follows:

Best Practice – Additional Seller's Condition

This contract is subject to the seller being released from all obligations under a previously accepted Purchase Contract number _____, before _____ m on __, 20__ (Condition Day). The seller agrees not to extend the conditions of the previously accepted Purchase Contract.

Possible Option – Additional Term

The use of a term in managing a backup-offer situation is tempting when representing a buyer, but can be problematic, as it assumes the transaction will take a certain path, often to the exclusion of other possible outcomes. Although a term may seem advantageous when working with a buyer, a legal dispute over a poorly worded term can be catastrophic. If a Realtor® is considering a term instead of a condition, the specific wording should be obtained from legal counsel to manage the specifics of the situation at hand.

Practice Tip: Backup offers are valuable for both the seller and the buyer. For the seller, it allows them to secure a second-best offer without going back to market if the first offer collapses. For the buyer, it provides a level of certainty of position, recognizing that the possibility of the first offer collapsing is real, and prevents the buyer from having to recompute for a desirable property. Realtor® fail in their fiduciary duty to the buyer when they fail to present the option of a backup offer and allow the buyer to decide.

Buyer is Bound to Another Offer

Less common is a situation where the buyer has offered on another property and needs release from that contract before proceeding with another buyer's offer to a seller.

Add an Additional Buyer's Condition:

This contract is subject to the buyer being released from all obligations under a previously accepted Purchase Contract number _____, before _____ m on __, 20__ (Condition Day).

Basement Development

Although the AREA Purchase Contract is not intended or recommended for use when the transaction is new construction, many builders list their properties on the MLS® system, and many Realtors® start negotiations using an AREA Purchase Contract. When the buyer intends to negotiate for the seller (builder) to finish the basement as part of the transaction, the following can be used as a term written on an addendum form and included properly as part of the contract.

Important - Realtors® should never include a term in the AREA contract such as “this contract will be transferred to a builder contract” without the buyer first having the opportunity to review the builder contract with their lawyer and either negotiate directly on the builder contract or attach the builder contract as a schedule.

Basement Development – Basic

The Seller agrees, at the Seller's sole cost, to complete the basement development as part of the purchase of the Property. The basement shall be finished by the Seller using the same standard of materials, workmanship, and quality as the rest of the property, and in line with the **attached Schedule of Finishes**. The basement development will be fully completed prior to the Completion Day, and all work will:

- I. Comply with the Alberta Building Code and all applicable municipal bylaws; and
- II. Be completed under all required building, electrical, and plumbing permits obtained and closed by the Seller; and
- III. Be completed by properly licensed and insured contractors.

The Seller agrees to be completely responsible for the payment of all contractors and trades, discharge any builders' or construction liens registered against the Property as a result of the basement work, and provide the Buyer, on or before Completion Day, with confirmation that all permits are finalized.

Basement Development – Legal Secondary Suite

The Seller agrees at the Seller's sole cost, to construct a legal secondary suite in the basement as part of the purchase of the Property. The legal suite shall be finished by the Seller using the same standard of materials, workmanship, and quality as the rest of the property and in line with the **attached Schedule of Finishes**. The legal suite will be fully completed prior to the Completion Day, and all work will:

- I. Comply with the Alberta Building Code and all applicable municipal bylaws, including those governing secondary suites; and
- II. Be completed under all required building, development, electrical, and plumbing permits obtained and closed by the Seller; and
- III. Be completed by properly licensed and insured contractors.

The seller agrees to be completely responsible for the payment of all contractors and trades, discharge and builders' or constructions liens registered against the Property as a result of the basement work, and provide the Buyer, on or before Completion Day, with confirmation that all permits are finalized and any occupancy or compliance approvals are completed, confirming the suite as legal for secondary occupancy.

Practice Tip: The addition of the "Schedule of Finishes" helps to codify the expectations of the buyer and seller in the development at the outset. This also requires that such a document exists. Often, the builder will prepare a document of this kind based on how the rest of the property is finished, but occasionally it may need to be carefully developed by the buyer instead. Be extremely careful when using complex terms like this to ensure they match the situation at hand and always seek legal advice or your broker's assistance before finalizing the drafting of such a term.

Permits

Permits Required but Were Not Obtained – Seller Disclosure

The Purchase Contract requires the seller to disclose any known lack of permits for any development on the Property. The following clause provides this disclosure:

The seller discloses that _____ development on the Property was completed without the required permits.

Determining the Availability of Permits – Buyer Condition

This contract is subject to the buyer determining the required permits for _____ development on the Property (describe or attach the plans as an addendum) are available before _____ m on _____, 20__ (Condition Day).

Seller to Obtain Permits Not Previously Obtained – Buyer’s Condition

This contract is subject to the seller, at the seller’s expense, obtaining permits which were required but not obtained for _____ development on the Property, and providing those permits to the buyer before ____ m on _____, 20__ (Condition Day).

Practice Tip: When it comes to matters such as obtaining permits from the municipality, the parties generally assume it is merely procedural, without considering the possibility that the permits may not be issued at all. For this reason, permitting issues should be a condition with sufficient time to allow the seller to meet the municipality’s process requirements, always with the understanding that, based on the seller’s success or failure in obtaining the permits, the buyer may need to decide whether they are comfortable proceeding. Occasionally, and under the advice of legal counsel, significant permitting delays may require a variant of the “Time Clause – Generic” or even a rescission clause, which should only be deployed with legal counsel.

Time Clause – Generic

A time clause is a special clause that allows one party to the transaction. In this template, the seller, has the opportunity to keep the option of seeking another contract while the other party endeavours to accomplish some due diligence (i.e., rezoning, variance, environmental audits, development approvals etc.). The clause seeks to provide a framework around how the parties agree the situation will develop and the constraints around moving forward or ending the agreement.

This contract is subject to the buyer (insert the detailed goal the buyer is attempting to accomplish), on or before _____ m on _____, 20__ (Condition Day).

Until the buyer delivers written notice waiving all buyer conditions, the seller may continue to market the property, disclose the existence of this condition and the time for waiver, and accept another purchase contract.

If the seller accepts another purchase contract, the seller will deliver written notice to the buyer (the "Seller's Notice"). The buyer will have ___ hours after delivery of the Seller's Notice to deliver written notice waiving all buyer conditions. If the buyer does not deliver such a waiver within that time, this contract will automatically terminate, and the deposit will be returned in accordance with this contract. If the buyer delivers such a waiver within that time, this contract will be unconditional and remain in full force and effect.

All notices must be given in accordance with the Notice Provisions of this contract.

Practice Tip: Although the most common and fulsome time clause is the Sale of a Buyer's Property condition, this generic time clause is useful for more general situations. Although rarer, this clause can be re-worked similarly as a seller's condition as well. For example, if the seller and buyer agree to transact but the seller has a job transfer in progress or hasn't found another home yet, this framework can help the deal come together while still allowing the buyer to seek other options while the seller sorts out their issues. Rewording should only be attempted under broker/lawyer supervision.

Financing Condition Terms

Details of Financing

For a situation where more details of buyer financing are required, the Purchase Contract financing condition can be replaced with the following:

This contract is subject to the buyer securing new financing, on or before _____ m on __, 20____ (Condition Day) as follows:

- (i) New mortgage amount of \$_____ (plus applicable mortgage insurance fee, if any).
- (ii) Interest rate not to exceed _____ % a year, calculated semi-annually not in advance.
- (iii) A term of not less than _____ years.
- (iv) Monthly payments of principal and interest not to exceed \$_____ (including mortgage insurance fee, if applicable) for an amortization of _____ years.

Practice Tip: The AREA Purchase Contract, by default, allows the buyer to determine the financing that works best for them before proceeding. This clause attempts to define the specific parameters of a buyer's financing. Unless you carry a mortgage broker's license in addition to your real estate license, ensure that these details are provided by the buyer's mortgage broker or lender. REALTOR® liability is increased when you go outside the scope of your license and expertise in providing advice to clients around financing.

Estate Sale

In order for an estate to be sold, the seller of the estate must have certain information in place. The following clauses provide optional terms or conditions that allow the seller time to obtain the required information.

Option 1 – Buyer Condition

Where the buyer desires to have the issuance of a Grant made, an Additional Buyer's Condition of the contract:

This contract is subject to the seller receiving before _____ m on ____, 20__ (Condition Day) the following:

- 1) A Grant from the surrogate court,
- 2) Assurance from the lawyer for the estate that everyone entitled to a claim has waived or released their claim against the Property.

OR

Option 2 – Completion Day Delayed

Where the buyer and seller are willing to proceed with a term regarding the estate issues:

The buyer acknowledges that the seller of the Property is an estate and a Grant has not yet been issued from the Court. The seller acknowledges that the person(s) signing this contract have applied for a Grant and believes that everyone entitled to an interest in the Property has consented to this sale. The buyer and seller agree that if a Grant has not been issued by the Completion Day, then the Completion Day will be delayed [*by xx days, or until the seller is able to obtain a Grant and a Transfer of Land*].

If the Seller determines that the Grant cannot be obtained or is unlikely to be obtained within a reasonable time, the Seller may end this Contract by giving written notice to the Buyer. If the Seller ends the Contract under this paragraph, the Seller will:

- a) Return the Buyer's deposit in full; and
- b) Pay the Buyer the sum of \$_____ as compensation.

If, after the extension period(s), the Grant has not yet been issued, the Buyer may terminate this Contract by giving written notice. If the Buyer ends the Contract under this paragraph, the Buyer will receive a full refund of the deposit, and neither will be in default.

OR

Option 3 – Buyer Tenancy

Where the buyer and seller agree that a delay in the seller obtaining a grant by completion day will not prevent the buyer from moving into the property.

The Buyer acknowledges that the Seller of the Property is an estate and a Grant has not yet been issued from the Courts. The Seller acknowledges that the person(s) signing this contract have applied for a Grant and that anyone entitled to a share of the Property has consented to this sale. The Buyer and Seller agree that, if a Grant has not been obtained by the Completion Day, the Buyer will take possession on a tenancy basis, with rent paid to the Seller as determined by the amount of monthly interest the Buyer would pay on their mortgage, or at the agreed rate of \$_____ per month, and the sale will complete once the Seller is issued the Grant and a registerable Transfer of Land.

If the Seller is ultimately unable to obtain the Grant, either party may end this Contract, the Buyer will vacate the Property, and the deposit will be returned to the Buyer in full.

Practice Tip: Since the rise of the ability to obtain a grant of probate electronically in Alberta for uncontested wills, the necessity for terms like these has become less common; however, when probate is contested or complicated in some way, the closing process can be tied up for months, years, and even, in some cases, be impossible. These clauses in no way attempt to replace the necessity to seek direction early from the estate lawyer, the client's lawyer, and your broker. These clauses are intended only to provide a framework for thought and do not replace legal advice.

Goods and Services Tax (GST)

Seeking Advice on GST

The contract provides that the Purchase Price includes GST. If the seller or buyer is unsure whether GST should be included in the Purchase Price or if there is an available rebate or exemption, etc., professional, qualified advice should be sought. Sources of information could include a lawyer, an accountant or the Canada Revenue Agency (CRA).

This contract is subject to the _____ (seller's or buyer's) satisfaction with the advice obtained on Goods and Services Tax (GST), on or before _____ m on _____, 20 __ (Condition Day).

GST Is Not Included in the Purchase Price

The Purchase Price does not include GST.

For additional clarity, once the client has received independent, expert advice on GST, the amount of GST and the responsible party can be added to this clause. If this clause is inserted, the Purchase Contract reference to GST being included should be struck out.

Independent Advice

The buyer confirms that the buyer has obtained independent GST advice concerning the obligation to pay GST and will be responsible for paying any GST and applying for any GST rebate in connection with this transaction.

Practice Tip: Remember that the responsibility for costs incurred to satisfy conditions is set out in the Purchase Contract Conditions section, so any due diligence the buyer needs to undertake in relation to accounting, legal, or other tax advice is at the buyer's own expense. GST is a fraught situation and beyond the professional scope of a Realtor® to advise on. A Realtor® should never provide such advice but should immediately direct the client(s) to do their own due diligence, then instruct the Realtor® on how they want it handled based on the clients' due diligence.

Property Inspection

The Purchase Contract property inspection condition is to the buyer's satisfaction. This means that as long as the buyer does their due diligence in having the inspection completed, they have the sole right to decide under what circumstances they will or will not proceed. In Alberta, licensing is required for Property Inspectors and:

- 1) Licensed property inspectors are licensed to perform visual, non-invasive inspections only.
- 2) Licensed property inspectors cannot provide consumers with cost estimates (*Consumer Protection Act*, Home Inspection Business Regulation 26(6)) therefore the buyer must obtain quotes from qualified contractors to determine the costs of identified defects.
- 3) Most service agreements between a licensed property inspector and their client will not allow the client to share the report. Ensure your clause does not cause the buyer to break the terms of their agreement with the property inspector.

If the traditional property inspection condition is relied upon, buyers should understand that it only covers a "typical" property inspection, for which the seller agrees to open their home, NOT additional specialized inspections, contractors, or other tradespeople. For these additional concerns, the option of a term clarifying what is intended by the "property inspection" in the condition or adding additional conditions. Both options below help ensure that the seller understands who will access their property and for what purpose.

Option 1 – Using the Template Condition Plus the Addition of a Clarifying Term

The seller acknowledges that the property inspection specified in 8.2(b) will include a non-destructive inspection of [specifics around the additional context i.e. scope of main line sewer system, WETT inspection of a wood burning fireplace, chimney, etc.] by same inspector certified for those inspections.

Practice Tip: This option should only be used when the same inspector conducting a standard visual inspection of the property is also certified to perform additional non-invasive services and will include those services as part of their property inspection. This term is not intended to cover separate contractors or inspectors entering the property for other specific inspections or services. Such circumstances require their own additional buyer's conditions.

Option 2 – Additional Buyer Conditions for Specific Inspections or Testing

This clause can be used in a wide variety of situations where the buyer wishes to obtain one or more inspections of items of concern to the buyer. These inspections are in addition to a typical property inspection. Examples include:

- Electrical inspections
- Sewer scope / camera work
- Renovation contractor(s)
- Water – potability, source, quality, quantity, drainage
- Soil quality
- Sewer or septic – adequacy, disposal, treatment
- Environmental concerns
- Hazardous materials – asbestos, urea formaldehyde foam insulation
- Suitability for development
- Availability of property insurance

This contract is subject to the buyer's satisfaction with an inspection by an inspector of the buyer's choice of the _____ (describe the concern), before _____ m on , 20____ (Condition Day).

The seller will cooperate by providing access to the Property on reasonable terms.

Practice Tip: NEVER, under any circumstances, provide a cost of estimate for any repairs needed to your client. They must determine any amount based on their own experience, needs, or professional quote (subject to negotiation between the parties). It is beyond the scope of a Realtor® to advise on specific repairs or associated costs, and doing so carries significant liability.

Rental Contracts

It is a growing option for homeowners to enter rental or lease agreements for equipment for mechanical or technical systems in the home rather than to own those same systems. The situation is often overlooked by the seller at the time of sale, but the contracts often run with the property or require payment in full. For example, common systems and furnace, hot water, solar panels, alarm systems etc. This condition allows for the discovery and review of such agreements.

This contract is subject to the buyer's satisfaction with a review of the terms of the agreement for ____ (examples: rental items not included in the Purchase Price but being assumed by the buyer, lease contracts, lease to own agreements, etc.) before _____ m on _____, 20____ (Condition Day).

The seller will cooperate by providing the buyer with true copies of the rental agreement before _____ m on _____, 20____ (Condition Day).

Practice Tip: This condition is only for the option to review the contracts; at some point, the buyer will need to decide whether to assume them as part of the transaction or require the seller to pay them in full. Here are some term addition options to consider based on the buyer's instructions after the review:

The Buyer agrees to assume the [i.e. rental contract] for the [system or equipment covered by the rental contract] adjusted to the Completion and subject to its existing terms as provided by the Seller. The Seller will have no further responsibility for ongoing costs or obligations after Completion.

OR

The Seller agrees, at the Seller's sole cost, to pay out the [i.e. rental contract] in full on or before Completion, so that the equipment will be owned free and clear by the Seller at the Completion Day and included in the sale of the Property to the Buyer.

Holdback Clause – Significant (e.g. Repairs Needed)

Holdback clauses serve to ensure that there is a monetary motivation for one party to fulfill their obligations as required by the contract. In the absence of a fully transparent, detailed, and well-worded holdback clause, enforcing specific contract expectations can be problematic and costly. Realtors® should always consult their broker and/or lawyer for advice on complex situations since drafting a holdback clause is highly contingent on the specific facts of the matter at issue.

This is only an example of a common holdback clause that considers repairs the parties have identified as needing to be completed as a condition of the buyer proceeding with purchasing the property. The concepts found here can be deployed in multiple situations in an effort to capture the transparent expectations of the parties and prevent after-the-fact disputes, but it is expected that Realtors® seek clear instruction and direction from their client.

To allow space to specify details of the needed work, the use of the Addendum form is recommended. The following details will help clarify the who, what, where, why and how of the work to be done.

The seller shall, at their sole expense, hire _____ (professional contractor of the seller or buyer's choice, a named contractor, etc.) to professionally repair _____ (extensive detail what needs to be

done), with materials and quality of workmanship equal or superior to the surrounding construction existing on the Property (the “Work”).

Option – If there is a Written Quote

The seller shall, at their sole expense, hire (the named contractor) to professionally complete the repairs to the Property as set out in their quote attached hereto as *Schedule A*, which forms part of this contract (the “Work”).

In the event the Work is not completed by the Completion Day, the buyer’s lawyer is instructed to holdback \$_____ from the Purchase Price (the “Holdback”). The Work shall only be considered completed upon the delivery to the buyer’s lawyer of a receipt(s) showing that the Work has been completed, paid for in full, and a transfer of the warranty verified for the Work to the buyer. If the work is not completed on or before _____ (date a reasonable time after the Completion Day). Then the Holdback shall be released to the buyer without prior notice. If the Work is completed on or before _____ (same work completion day as above), then the buyer’s lawyer is instructed to send the Holdback to the seller’s lawyer to be released to the seller.

Optional Add-On

If the Holdback is insufficient to complete the Work, the seller shall remain liable to the buyer for the full cost of completing the Work.

OR

In the event that the Holdback is insufficient to complete the Work, the buyer understands that they are responsible for the remaining cost of completing the Work.

Practice Tip: It is important for Realtors® to understand the way many lenders view significant holdback clauses in modern real estate contracts. When the holdback anticipates significant sums of money or material upgrades to systems required for the property’s long-term viability, it is unlikely that a lender will permit the funds to be delivered directly to the buyer. In such specific cases, and under legal and broker advice, the holdback should be framed with a true written quote from a reputable company doing the work, and the exact amount and description of the work, as well as a statement of the payment of the holdback funds to be paid directly to the contractor at the completion of the work. This has the highest chance of lender approval, since the funds bypass the buyer’s hands and go directly into the property improvements.

Holdback Clause – Minor (e.g. Professional Cleaning)

The seller, at the seller's expense, will have _____ (detail what needs to be cleaned) professionally cleaned before _____ m on _____, 20____.

The cost of cleaning shall not exceed \$_____.

The cleaning will be done by _____ (option include: professional cleaner of the seller's or buyer's choice, a named cleaning company, etc.), and the seller will provide the buyer with a copy of the receipt showing that the cleaning has been completed and paid for. The seller and buyer agree that the receipt is evidence of completion of this term.

The buyer will instruct the buyer's lawyer to hold back \$_____ from the payment of the Purchase Price until the receipt is provided.

If the receipt is not provided by the agreed date, the holdback funds will be released without notice to the buyer.

Practice Tip: Timing in these types of holdback clauses is important, as the process steps to hold back money on something minor, which should be done prior to completion, can become problematic. It is preferable for all parties that the day and time by which the minor issue must be completed and evidence provided be set no later than the completion day of the contract, where possible.

Third Party Approval Condition

This is a catch-all clause. It can be used when the seller or buyer requires approval, an opinion, or confirmation from a third party before proceeding with the contract.

Circumstances where this may be required include:

- Legal advice on the contract
- Approval of purchase by spouse or relative
- Confirmation of the availability of property insurance
- Approval of the employer (corporate transfer)
- Site inspection report (environmental, engineering, structural, lot grading etc.)

This contract is subject to the _____ (seller's or buyer's) satisfaction with _____ (insert circumstances), before _____ m on _____, 20____ (Condition Day).

Practice Tip: Although most of these items do not require access to the property, if the needed action does possibly require access to the property, include: The seller will cooperate by providing access to the Property on reasonable terms.

Property Accessible by Water Only

Although rare in Alberta, there are situations where access to a piece of property is available only by water. Think of an island property in a large lake, or a rural property adjacent to a river but otherwise without road access. In these situations, the use and enjoyment of the property are tied to the buyer's ability to access it, and the parties need to clarify this situation in writing.

The seller discloses, and the buyer acknowledges, that the Property is accessible only by water.

Practice Tip: In these cases, details about the body of water, whether water access is available year-round, etc., can add clarity and reduce disputes. The more details available and in writing, the less likely future disputes will arise.

Pre-Possession Walkthrough

A final walk-through (sometimes called a pre-possession walkthrough) can serve as a check of the property's condition and confirm that items intended to be included remain in the property. The walk-through will usually occur shortly before closing. The walk-through is not intended to be an in-depth inspection of the property, as conducted by a licensed property inspector. If a buyer wants to complete an inspection, the contract should include a term for it.

Option 1 – Visit Count

The buyer will have the right to a ____ (walk-through, pre-possession walkthrough) of the Property prior to Completion Day, up to a maximum of _____ times.

Option 2 – Specific Date

The buyer will have the right to a _____ (walk-through, pre-possession walkthrough) of the Property on __, 20____(specify date and time, if required).

The seller will cooperate by providing access to the Property on reasonable terms.

Practice Tip: It is critical for Realtors® to understand that, without a contractually agreed-upon holdback or condition for a specific anticipated concern, a pre-possession walkthrough does not entitle the buyer to renegotiate, delay, or refuse closing if an issue is identified during that walkthrough. The lawyers for the parties will similarly be unable to impose any additional restrictions beyond those the contract already anticipates, and Realtors® should not lead their buyer clients to believe otherwise.

Water Softener Removal

Water softeners are not generally considered critical to the operation of the property's water system, and many sellers will want to take them to their new property, especially since many are in Rental Contracts (see Rental Contract in this document). Because they are generally considered attached to the property through the plumbing system, the Seller should clarify whether they are taking the system and assure the Buyer of proper removal using this term.

The seller, at the seller's expense, will have a licensed plumber remove the water softener and cap the pipes, on or before Completion Day.

Practice Tip: This clause can also be used for other items that are closely connected to the home's systems but that the seller intends to take. For example: hot tubs, hard-wired saunas, water filtration systems, camera systems, smart thermostats, etc.

Wood Stove / Fireplace Disclosure

For circumstances where a wood or pellet stove and/or fireplace may have been added to the property, but the seller has not obtained proper permission. This clause assumes the buyer wants to accept the risks of leaving the appliance as is. If the buyer is unsure, they should use one of the specific property inspection clauses in this guide, and/or one of the permit clauses to define their expectations.

The seller discloses, and the buyer acknowledges that the _____ (wood stove or fireplace) on the Property may not be approved for legal use and may cause fire insurance taken on the Property to become void. The buyer accepts all risks associated with the _____ (wood stove or fireplace).

Practice Tip: In today's insurance environment, the insurance company of the potential buyer nearly always requires a WETT inspection of the wood-burning appliance to ensure it is safe for the property and its occupants. Realtors® should always be aware of this requirement and advise the buyer to include a condition requiring that this be completed, or that WETT certification be provided by the seller.

Financial Obligations May Exceed Sale Price

Where the sale price appears to be insufficient to cover the seller's financial encumbrances and real estate fees, the seller can be protected by the use of an additional seller's condition.

This contract is subject to the seller verifying the seller's ability to proceed with the sale of the Property before _____m on _____, 20_____ Condition Day).

Practice Tip: The lack of equity or other funds available to close on behalf of the seller is generally considered an obstacle that is impossible to overcome. Real estate brokerages should attempt to protect their fee agreement by registering a caveat on the title in such circumstances, but careful investigation into the seller's ability to close should have been conducted by the seller's Realtor® and brokerage prior to the property coming on the market.

Illegal Use Disclosure

Seller Warranty

The seller represents and warrants that, during the time the seller has owned the Property, the Property has not been used for any criminal activity, including the illegal growth of marijuana or manufacture of any illegal substances.

Hazardous Materials, Safety Health or Environmental Issue

Many hazardous or safety issues can exist in real estate property. These can include:

- Asbestos (insulation, tile, etc.)
- Urea formaldehyde foam insulation (UFFI)
- Radon
- Pests (termites, bed bugs, vermin, etc.)
- Environmental problems (oil soils, creosote contamination, underground storage tanks, erosion, etc.)

The following clauses provide options for seller disclosure of the issue and a buyer condition related to it.

Disclosure and Acknowledgement of the Issue

The seller discloses, and the buyer acknowledges, that the Property contains _____ (insert details about the specific hazard being disclosed).

Seller Disclosure on Corrective Measures

Option 1 – Disclosure of Remedy

The seller discloses that _____ (describe the issue. Example: asbestos insulation in the attic of the main residence on the Property) has undergone the following corrective measures (or remedy) _____ (describe).

The seller has provided the following documents to prove this disclosure: _____ (describe).

Option 2 – The Issue Never Existed

The seller represents and warrants that the Property does not contain _____ (describe).

Option 3 – Disclosure of Issue, Remedy and Provision of Documents

The seller discloses that although _____ (describe issue) was known to have existed on the Property, the Property has undergone the following corrective measures (or remedy) _____ (describe).

The seller has provided the following documents to prove this disclosure: _____ (describe).

Practice Note: In all these clauses, the addition of extensive details of the issue, all things known at the time, where it is specifically located on or in the Property, etc., is the best practice. The more detail provided, the more clarity will result and the fewer disputes. When representing a buyer, it is best practice to recommend buyer due diligence through special inspections to ensure the buyer isn't relying solely on the seller's representations when making decisions.

HOA Fees Disclosure

To the best of the seller's knowledge and to be verified by the buyer, the total current monthly contribution to the Property's Homeowner Association (HOA) fee is: \$_____.

Development / Redevelopment

Buyer's Condition

This contract is subject to the buyer determining that the Property can be developed to the buyer's needs, before ____ m on ____, 20__ (Condition Day).

The seller will cooperate by providing access to the Property on reasonable terms.

Practice Tip: If this condition spans a long timeframe due to the extent of the buyer's due diligence, a time clause (see Time Clause – generic) may be used to allow the seller to continue marketing the property during this period.

Investment Property

Buyer's Condition

This contract is subject to the buyer's satisfaction with a review of _____ (lease and rental agreements, deposits, financial reports, etc.), before ____ m on _____, 20__ (Condition Day).

The seller will cooperate by providing the required documents.

No Changes Without Consent

The seller will not _____ (alter existing agreements, enter into new agreements, etc.) prior to Completion Day without the prior written consent of the buyer.

Seller's Warranty - re Documents

The seller represents and warrants to the buyer that the _____ (lease and rental agreements, deposits, financial reports, etc.), are true and accurate.

Practice Tip: Investment properties typically hinge on the income approach to value, and Realtors® should ensure their clients are aware of all applicable factors that drive the property's income, as well as the supporting documentation.

Flood Plain / Environmental Protection Area

Seller Disclosure

The seller discloses that the Property is located in _____ (floodway, flood fringe, overland flow, environmentally protected area) as indicated on the _____ (describe source of information – examples: online Alberta Environment and Parks Flood Hazard Map Application, municipal flood mapping, municipal land use maps, etc.).

Buyer Condition

This contract is subject to the buyer's satisfaction of the buyer's review of the Property location in relation to _____ (designated flood zones, environmentally protected areas, etc.), before _____ m on _____, 20__ (Condition Day).

Heritage Property

The seller discloses that the Property (is/may be) subject to the provisions of *The Historical Resources Act* (Alberta).

Non-Resident

The Purchase Contract includes a seller warranty that the seller is "not a non-resident for the purposes of the *Income Tax Act* (Canada)". If, in fact, the seller is a non-resident, this should be explicitly noted by the following clause being inserted:

The seller discloses that the seller is a non-resident of Canada for the purposes of the *Income Tax Act* (Canada) and that a portion of the sale proceeds, as required by that Act, may be held back by the buyer or buyer's lawyer or the seller's lawyer under appropriate trust conditions until the seller supplies the appropriate clearance certificate from the Canada Revenue Agency.

Practice Tip: Current withholding by the CRA may range from 25% to 50% of the property's selling price. This means that if the seller does not already have a clearance certificate, they will need at least this amount of free equity, or liquid capital, to close the transaction. Otherwise, the transaction will not close, or provisions in the contract must be made for closing delays in case it takes some time (see the concepts covered in Estate Sale). This will require legal advice for the parties to ensure necessary precautions are taken.

Buyer Brokerage's Fee

Working with buyers in Alberta can take one of 3 forms of representation. The buyer can be in an Exclusive Buyer Representation Agreement (EBRA), a Non-Exclusive Buyer Representation Agreement (NEBRA), or a customer status. The Non-Exclusive relationship has no fee expectation and relies on the fee being offered by the seller's brokerage as advertised on the MLS® system, or by a secondary negotiation of the fee at a later time with the buyer directly.

In situations where the brokerage is using an Exclusive Agreement, there is a contractually sound method for negotiating the expected fee within the purchase contract if the EBRA anticipates a specific fee, NOT a reference to a fee offered in the MLS® etc. This means the buyer has a direct contractual obligation to the brokerage to pay a determined fee, and can ask the seller to cover that obligation for them as a term of the contract, using the following term:

The buyer requests and the seller agrees to pay the buyers brokerage, [insert buyers brokerage name], the sum of [insert fee amount described in EBRA] +GST on the final selling price at closing, in order to allow the buyer to fulfill the buyer's obligations to the buyer's brokerage through the Exclusive Buyer Representation Agreement #_____. This compensation is in lieu of other advertised compensation.

Practice Tip: At the offer stage, this is still a point of negotiation for the parties; however, once agreed, it obligates the seller to pay the agreed amount or be found in breach. All buyer and seller representation paperwork should be amended as necessary to align with the final agreement between the parties, ensuring the brokerages have the correct information to convey. More detailed information can be found at: <https://albertarealtor.ca/practically-speaking/blog-realtors-are-worth-their-fee-but-how-can-it-be-secured>.

Vacant Possession / Tenancy Clauses

The Purchase Contract contemplates vacant possession ("this contract will be completed, the Purchase Price fully paid and vacant possession given to the buyer...."). If a tenant is in place, the seller will need to indicate there is a tenant and use the Tenancy Schedule.

The buyer may be willing to accept the tenant on possession but wants the property vacated for their own use or that of their immediate family. This can occur in two ways:

- 1) The buyer can take possession and give the tenant the appropriate notice under the *Residential Tenancies Act* (Alberta), or
- 2) They can ask the seller to give those notices, as follows:

Seller To Give Notice

The buyer and seller agree that when this contract becomes firm, the seller will give the tenant the required notice under the *Residential Tenancies Act* (Alberta) to vacate the property, so that vacant possession is given to the buyer on _____ (date).

Practice Tip: Past landlord-tenant issues can be a concern for a buyer of a property who is assuming the tenancy. The proper use of the Tenancy Schedule, as well as the use of the following clauses, may give a buyer some assurance that the tenancy has been handled correctly in the past and that they are not inheriting a problem with a tenant.

Tenancy History – Seller Warranty

The seller represents and warrants that during the period of the seller's ownership and rental of the Property, the Property has been rented in accordance with the Residential Tenancies Act (Alberta), and that any rent increase has been affected in accordance with the legislation.

Landlord / Tenant Disputes – Seller Warranty

The seller represents and warrants that there are no outstanding disputes between the seller as landlord and any tenant of the Property.

Insurance

The availability of adequate property insurance is something a buyer may want to confirm before being bound by a contract. Weather events (floods, hail, tornadoes, etc.) and property features that pose a potential risk (woodstove, unpermitted work, etc.) may make property insurance difficult or expensive to obtain. If a situation like this applies to a property, a buyer's condition can help protect the buyer's interests.

Obtaining Insurance – Buyer Condition

This contract is subject to the buyer's satisfaction that adequate insurance coverage for the Property is available, before _____ m on ____, 20__ (Condition Day).

Another insurance-specific situation is when a seller has received a payout from an insurer but has not repaired the insured item. In these cases, if a buyer submits a future claim for the item, it may not be covered. The following warranty protects the buyer in this situation.

Receipt of Insurance Payout – Seller Warranty

The seller warrants that it has not received any insurance settlements where the work on the Property has not been completed.

Practice Tip: In Alberta, insurance services require a license, and Realtors® are not licensed to advise on insurance matters. The Realtors® role is to recognize when an insurance issue arises and direct their clients to seek qualified advice from a lawyer and a licensed insurance broker.

Title Search

Whether you are working for the buyer or the seller, a title search can reveal valuable information about the property. Among other things, the title provides key information about the property, its owners, any use restrictions, liens, health authority notices, etc.

If, in the interest of time, the buyer does not want to delay making an offer or items on the title require legal advice, a contract condition can be inserted to allow time for the review of the title. This will help fill the gap and still protect your buyer's interests.

This contract is subject to the buyer's satisfaction with a review of the land title for the Property, before _____ m on _____, 20__ (Condition Day).

Practice Tip: As a buyer's agent, the ideal time to review the title is prior to writing an offer. This is because some of the information may affect the amount the buyer is willing to offer or the conditions the buyer may want to include, based on the static information found in the certificate of Title. Additionally, a current copy of the title helps verify information found in the MLS® system before a serious error in legal description, size, ownership, etc. becomes a problem for the parties.

Land Use

In the residential real estate market, sellers and buyers exchange properties primarily for their personal use. However, there may be a need for supplemental uses such as a home-based business or secondary suite. When the buyer requires an additional use, one of the following clauses can be inserted to allow time for the buyer to determine if the current land use is suitable for their needs or, the seller can provide a warranty that the buyer's intended use is allowed. Caution – sellers making such a warranty can be held liable for the warranty. When land use matters are at issue, the assistance of a lawyer may be required.

Buyer Conditions

Option 1

This contract is subject to the buyer confirming the land use for the Property is appropriate for __ (suitable for the buyer's intended use, home-based business, basement suite, etc.), before _____ m on ____, 20__ (Condition Day).

Option 2

This contract is subject to the buyer obtaining final municipal approval of land use changes from _ to _____, before _____ m on _____, 20__ (Condition Day).

The seller will cooperate with the buyer throughout the land-use change process.

Seller Warrants Land Use

The seller represents and warrants that the land use for the Property allows the Property to be used for _____ (basement suite, home-based business, etc.).

Practice Tip: Land use issues can be significant, and these clauses help in discovery. In circumstances where the buyer is seeking a change or variance to the current use as a condition of the contract, this will normally take a significant amount of time, and the seller may want to use a time clause to allow them to continue marketing the property (see Time Clause – Generic).

Real Property Report (RPR)

RPR- Buyer's Condition

Problems with the RPR are the single most common cause of delays and disputes at closing. Therefore, the buyer may choose to make the contract subject to their review of the RPR. This review should be undertaken by the buyer's lawyer. Reviewing the RPR in advance and addressing any problems early in the transaction makes for smoother closings.

This contract is subject to the buyer's satisfaction of a Real Property Report review, conducted by their lawyer, before _____ m on _____, 20__ (Condition Day).

The seller will cooperate with the review by providing the buyer with an RPR (or a photocopy) showing the current improvements on the Property, in accordance with the Alberta Land Surveyors' Association Manual of Standard Practice, with evidence of municipal compliance or non-conformance, and confirming the seller's warranties regarding the land and buildings. Notwithstanding the waiver of this condition, all provisions of the Contract relating to the Real Property Report (RPR), including the Seller's representations and warranties, shall remain in full force and effect.

Title Insurance

Seller to Pay the Cost of Title Insurance – RPR is Not Provided

The seller will contribute up to \$_____ towards the cost of a Title Insurance Policy for the benefit of the buyer and the buyer's lender (if financing is obtained). The policy is to be secured by the buyer. A Real Property Report will not be provided.

Practice Tip: Many clauses in the contract are connected and possibly interdependent. If choosing to strike out sections of the standard AREA Purchase Contracts, then please obtain legal advice.

Seller to Pay the Cost of Title Insurance – Existing RPR is Provided

In circumstances where the seller has an existing Real Property Report that does not reflect the property's current state, the RPR should be updated. If the seller does not want to update the RPR and the buyer is willing, title insurance could be used in addition to the existing RPR. In cases where an RPR is not current, and title insurance will be obtained, legal advice is recommended.

The seller will provide an existing Real Property Report dated _____, which does not reflect the current improvements on Property.

The seller will contribute up to \$_____ towards the cost of a Title Insurance Policy for the benefit of the buyer and the buyer's lender (if financing is obtained). The Policy is to be secured by the buyer. An updated Real Property Report will not be provided.

Practice Tip: Many clauses in the contract are connected and possibly interdependent. If choosing to strike out sections of the standard AREA Purchase Contracts, then please obtain legal advice.
