

**COMMERCIAL STANDARD CLAUSES
RELATED TO
COLUMBUS REALTORS COMMERCIAL PURCHASE CONTRACT**
Approved 7/26/17

WARNING!!

Real estate licensees are not permitted to engage in the unauthorized practice of law. The clauses set forth below constitute a compilation of standard real estate clauses, the language of which has been approved by the Board's legal counsel, and should simply serve as a checklist of subjects that clients and customers may choose to consider in contracting for the lease or purchase of real estate. Since real estate licensees are prohibited from giving legal advice, clients and customers must be strongly encouraged to consult legal counsel before selecting any language for inclusion in a real estate contract. For further information, please see the Board's White Paper on the proper use of standard real estate clauses.

PARAGRAPH 2 – PRICE AND TERMS

200 Loan Commitment:

The Buyer's obligations are contingent upon the Buyer obtaining a (write in type of loan): _____ loan commitment within _____ (not applicable if the number of days is not inserted) calendar days after written acceptance of this contract. Buyer shall use good faith and reasonable efforts to obtain the loan commitment. Within the stated time period, Buyer shall deliver to Seller and/or Seller's Broker a written notification from Buyer's lender that the loan commitment has been obtained. Delivery of the written notification to Seller and/or Seller's Broker that a loan commitment has been obtained shall satisfy this contingency. If, at the expiration of the stated time period, Buyer has not delivered the written notification referenced above, or has not waived this contingency in writing, this contract shall terminate and the earnest money deposit shall be returned to Buyer pursuant to paragraph 11.

201 Backup Offer Clause(s)

Seller is presenting this counteroffer as a backup to an existing purchase contract, which shall be referred to as the "Primary Contract." The terms of Buyer's offer are accepted with the following modifications and/or additions:

1. Seller is presently in contract. This counteroffer, if accepted by Buyer, shall be a backup contract to the existing Primary Contract, which is scheduled to close on or before _____. If for any reason the primary contract is terminated, Seller will provide written

notice to Buyer and upon delivery of that notice to Buyer's agent, the backup contract will be considered the Primary Contract.

2. Seller reserves the right to make modifications and/or additions to the terms and conditions of the Primary Contract, which shall not in any way affect Buyer's position as the backup (secondary) contract. Buyer's deposit check shall be due and payable within 24 hours of Buyer receiving written notice that Buyer has moved from backup position to primary position.
3. All time periods specified in the backup contract regarding inspections will not begin to run until Seller delivers to Buyer written notice that Buyer has moved from backup position to primary position.
4. If Seller is unable, in good faith, to close the Primary Contract within _____ days of the acceptance of the backup counter offer then this backup contract is automatically terminated.

202 Multiple Offers/Counteroffers – (Seller's Indisputable right to choose)

Seller has received multiple offers for the property located at _____.
Seller is submitting a counteroffer for more than one of the offers. Prospective buyers are notified the counteroffers may not contain identical terms and conditions. Seller reserves the right to accept any offer or to make counteroffers to any other person and shall have no obligation to sell the property to any of the prospective buyers. If Seller's counteroffer is accepted by more than one prospective buyer within the time specified below, no acceptance of the Seller's counteroffer shall be binding or constitute a valid purchase agreement until the Seller confirms which counteroffer is accepted by affixing the Seller's signature a second time to the counteroffer Seller chooses to ultimately accept.

Sellers: _____

Buyers: _____

Sellers: _____

Buyers: _____

VALIDATING ACCEPTANCE AND ACKNOWLEDGMENT

Sellers: _____

Buyers: _____

Sellers: _____

Buyers: _____

203 PROPERTY INCOME, EXPENSE AND LEASES

Within _____ (_____) days after the acceptance of this offer, Seller shall provide Buyer with all tenant leases **in full force and effect**, **and** income and expense **reports and** regarding the property for the past _____ months. After the aforementioned is received by Buyer, the Buyer shall have _____ (_____) days to review and find the same satisfactory or terminate this contract.

204 LEASES AND RENEWALS

Upon execution of this contract, Seller shall not lease or renew leases that are not subject to the ordinary course of business and meet current property standards without prior written approval of Buyer. Said approval shall not be unreasonably withheld or delayed.

205 ZONING VERIFICATION

Buyer having _____ (_____) days after the acceptance of this offer to verify the property zoning will permit Buyer's use of _____

206 LICENSED REAL ESTATE BROKER/AGENT

It is understood that _____, referred to as (Buyer/Seller), is a licensed Ohio real estate Broker/Agent and is a principal in this transaction.

207 CONDOMINIUM/OWNER'S ASSOCIATION

Seller shall within _____ days of the date of agreement provide Buyer with a statement and transfer package from any owners association servicing the property. Such transfer package shall at a minimum include: copies of the association's bylaws, articles of incorporation, current budget and financial statement. Buyer has _____ days from the receipt of such documents to satisfy itself with regard to the association. If Buyer does not receive such documents within the above specified period, Buyer may terminate this contract by delivering written notice of such termination to Seller within the above specified period that the contract is null and void. Upon such termination, Buyer's earnest money deposit shall be released.

ATTORNEY APPROVAL CLAUSE

The Buyer or Seller may terminate this contract if the party's attorney disapproves this contract, by providing written notice of said disapproval, along with changes proposed by that party's attorney to remedy the disapproval, within five (5) calendar days after acceptance hereof. If the other party accepts the proposed changes in writing within three (3) calendar days after delivery thereof, this contract shall continue in full force and effect, as amended by the changes. The party requesting the changes may waive the request in writing prior to the expiration of the three (3) calendar day period. If the contract is terminated, the earnest money deposit shall be returned to the Buyer pursuant to paragraph _____.

"AS IS" CLAUSE

Except as otherwise expressly provided in Section 5 of this Agreement, Seller hereby disclaims all warranties of any kind or nature whatsoever (including warranties of habitability and fitness for purpose), whether expressed or implied, including but not limited to warranties with respect to the Property, the leases, the tenants at the Property, the zoning of the land, or the suitability of the property for Buyer's intended use thereof.

Buyer acknowledges that Buyer has conducted, or shall have the opportunity to conduct, a diligent investigation of the Property with regards to its condition, permitted use, and suitability for Buyer's intended use thereof, as well as all other factors deemed material to Buyer, and has employed such independent professionals in connection therewith as deemed necessary by Buyer.

Buyer further acknowledges that Buyer is purchasing the Property "as is" and in its present condition, and that Buyer is not relying upon any kind of nature made, prepared, or delivered by Seller (except as expressly set forth in this Agreement) or any of its employees or agents with respect to the Property, and that, in fact, no such representations were made.

Further, and without in any way limiting any other provision of this Agreement, Seller makes no warranty with respect to the absence on or beneath the Property (or any parcel in proximity thereto) of hazardous substances or materials which are categorized as hazardous or toxic under any local, state, or federal law, statute, ordinance, rule or regulation pertaining to environmental or substance regulation, contamination, cleanup or disclosure.

By acceptance of this Agreement and the Deed, Buyer acknowledges that Buyer's opportunity for inspection and investigation of such Property (and other parcels in proximity thereto) has been adequate to enable Buyer to make Buyer's own determination with respect to the presence on or beneath the property (and other parcels in proximity thereto) of such hazardous substances or materials.

COMMERCIAL WARRANTY CLAUSES

To the best of Seller's knowledge:

1. there are no actions, suits or proceedings, pending or threatened, against Seller with respect to the Property or affecting any of their rights with relation to the Property, at law or in equity, or before any federal, state, municipal or other governmental agency or instrumentality.
2. seller has full authority to enter into this contract and to execute all documents contemplated hereby, and Seller's execution, delivery and performance of this contract will not violate the provisions of any agreement to which Seller is a party or by which Seller is bound. The individual executing this contract on behalf of the Seller has been duly authorized to bind the Seller to its terms.
3. the Property is not located within a flood zone of less than 100-years.
4. Except as disclosed on the title commitment, with respect to the Property, there are no present agreements or commitments between Seller or any of its respective predecessors in title and any governmental, public or quasi-public agency which would or could impose any obligation or require Buyer to pay any sums or require any development limitations (other than existing zoning and building codes).
5. there are no agreements, contracts, leases, options, puts, or other agreements or contracts with any third-party relating to the Property that have not been disclosed. Furthermore, Seller covenants to Buyer that Seller will not enter into or extend any lease or tenancy agreement affecting any of the Property that will survive the Closing without prior written approval of Buyer.
6. seller shall transfer the Property to Buyer in its present condition, and will not create or permit any additional defects, liens, restrictions or other encumbrances to be created on or regarding the title thereto after the date of this contract.
7. seller has not used the Property for the disposal of any hazardous or toxic waste materials, nor has the Property ever contained, nor does it currently contain, any hazardous or toxic waste materials in violation of any applicable environmental laws or regulations.
8. seller has not received any notices from any governmental entities indicating that the Property is or may be classified as jurisdictional wetlands, or subject to any conditions that may constitute wetlands at the Property, such as wetlands hydrology, hydric soils or hydrophytic vegetation.
9. there are no obligations in connection with the Property or any recapture agreements (or the like) involving refund for sewer extension, oversizing utility lines, lighting or similar expenses or charges for work or services done upon or relating to the Property, which will bind Buyer or the Property from and after the Closing Date.

10. all utilities required for operation of the Property enter through adjoining public roadways, or, if they pass through adjoining private land, do so in accordance with valid public or private easements which will inure to the benefit of the Buyer. No fact or condition exists which would result in the discontinuation of necessary utilities or services that are currently in place.
11. there are no obligations in connection with the Property or any recapture agreements (or the like) involving refund for sewer extension, oversizing utility lines, lighting or similar expenses or charges for work or services done upon or relating to the Property, which will bind Buyer or the Property from and after the Closing.
12. the Property has access to and from public highways, roads, and/or rights -of-way, has no fact or condition which would result in the termination of the current access to or from the Property to any presently existing highways, roads, and rights-of-way on or adjoining the Property.

All representations, warranties and covenants of Seller contained in this contract, whether under this paragraph or provided elsewhere, shall be true as at the date of Closing as if those representations and warranties were made at such time and Seller shall execute and deliver to Buyer an affidavit upon Closing certifying that all of the representations and warranties made in this contract are true and accurate and all covenants of Seller have been fulfilled as of that date.

Seller hereby agrees to indemnify and hold Buyer harmless from and against any and all claims, demands, liabilities, costs and expenses of every nature and kind (including attorney fees) which Buyer may sustain at any time (i) as a result of, arising out of or in any way connected with the operation, ownership, custody or control of the Property prior to the Closing date, or (ii) by reason of the untruth, breach, misrepresentation or nonfulfillment of any of the covenants, representations, warranties of agreements made by Seller in this contract or in any documents or agreements delivered in connection herewith or with the Closing of the transaction contemplated hereby.

DEFAULT AND REMEDIES: If either party to this contract fails to fulfill any of its obligations hereunder or otherwise defaults hereunder, the non-defaulting party shall give the defaulting party written notice of such default and the party in default shall have ten (10) days thereafter to correct or remedy the default, unless otherwise provided for in this contract. If the party in default fails to cure its default, the party not in default shall have all rights provided by law or in equity, including but not limited to the right to specific performance or the right to terminate this contract and obtain damages.