

[FOR USE WITH COMMERCIAL PROPERTY]

***Editor's Comments:** The following is a simple Letter of Intent of the type commonly used to tie up commercial property after basic terms have been established. No template will work in all circumstances. Editor's comments are shown in italics, as are some additional or alternate provisions (including those in Schedule A), which can be incorporated, if appropriate, into the body of the Letter of Intent. The Letter of Intent is not intended to be legally binding.*

LETTER OF INTENT

Date: ♦

To: ♦

RE: ♦ *[civic address]* (the "Property")

The following sets out the basic terms upon which we would be prepared to purchase the Property. The terms are not comprehensive and we expect that additional terms, *[including reasonable warranties and representations,]* will be incorporated into a formal agreement (the "Agreement") to be negotiated. The basic terms are as follows:

1. Purchaser: ♦ *[or its nominee] or [or an affiliate] or [or assign]*
2. Vendor: ♦
3. Property: ♦ *[insert legal description]*, free and clear of all liens, charges and encumbrances at Closing, except: ♦ *[e.g. those recorded on title to the Property as at the date hereof, with the exception of the Vendor's mortgage(s)].*
4. Purchase Price: \$♦, subject to customary adjustments.
5. Deposit: Upon execution of the Agreement, the Purchaser will deposit with ♦ *[e.g. the Purchaser's lawyer]*, the amount of \$♦ which will be invested in an interest bearing trust account and will be fully refundable if the Conditions Precedent are not satisfied or waived in writing by the Purchaser. Otherwise, the Deposit and interest will be applied to the Purchase Price at Closing. If the Purchaser defaults at Closing, the Deposit and interest will be retained by the Vendor as its sole remedy.
6. Access to Information: Immediately upon execution of this Letter of Intent, the Purchaser and its advisors will have full access during normal business hours to *[or, Within ♦ days of execution of this Letter of Intent the Vendor will deliver to the Purchaser, copies of]* all documents pertaining to the Property and within the Vendor's control, including ♦ *[list what is relevant in the circumstances, e.g.: all leases and*

amendments, tenant files, current rent roll, current operating statement and operating statements for the last three (3) calendar years, delinquent accounts report, security deposits list, current operating cost recovery reconciliation and operating cost recovery reconciliation for the last three (3) calendar years, all reports including e.g. appraisal, environmental, engineering, structural, mechanical, traffic, soils, drainage, foundation and roof reports and all other studies, notices or information pertaining to the condition or status of the Property]. The documents that are copied [or delivered] (the “Materials”) will be listed and referred to in the Agreement.

7. Condition(s) Precedent: The obligation of the Purchaser to purchase the Property will be subject to satisfaction or written waiver by the Purchaser of the following condition(s) (the “Condition(s) Precedent”) within ♦ days after execution and delivery of the Agreement [*or, receipt by the Purchaser of the Materials*]: [*here are some typical, brief Conditions Precedent which might be appropriate*]:
 - review and approval of the Materials;
 - completion of satisfactory physical [*and environmental inspections*] of the Property;
 - completion of satisfactory due diligence searches and examinations;
 - satisfactory review of title to the Property;
 - satisfactory [first/second mortgage] financing [*in an amount not less than \$♦*] being arranged for the purchase of the Property;
 - approval of the Board of Directors of the Purchaser being obtained;
 - satisfactory review and approval of the zoning [*or proposed zoning*] for the Property;
 - obtaining satisfactory confirmation that necessary approvals for the Purchaser’s intended use of the Property will be available;
 - satisfactory arrangements being made by the Purchaser with ♦ for ♦ [*e.g. acquisition of property adjacent to the Property concurrently with the Property*].
8. Return of Materials: The Materials will be returned to the Vendor or destroyed if the Agreement is not executed within the time provided.
9. Closing: The Closing will occur not later than ♦ days following the satisfaction or written waiver by the Purchaser of the Condition(s) Precedent. [*The Purchaser may extend the Closing for ♦ days on [each of] ♦ occasion(s) by increasing the Deposit by \$ ♦ in each instance.*]
10. Costs: The Purchaser and the Vendor will each bear their own expenses in connection with this Letter of Intent and the purchase and sale of the Property.

11. Confidentiality: All negotiations regarding the Property will be confidential and will not be disclosed to anyone other than respective advisors and internal staff of the parties and necessary third parties, such as lenders approached for financing. *[No press or other publicity release will be issued to the general public concerning the proposed transaction without mutual consent.] [unless required by law, and then only upon prior written notice to the other party.]*
12. Purchase and Sale Agreement: Upon execution of this Letter of Intent, the Purchaser will prepare a draft of the formal Agreement for the Vendor's review.
13. Acquisition of Nominee: If title to the Property is held in trust for the Vendor by a single purpose nominee, the Purchaser will be entitled to purchase the shares of such nominee for the sum of \$1, and the Vendor will convey such shares and the beneficial interest in the Property to the Purchaser at Closing, with title in the state contemplated.
14. Good Faith Negotiations: Each of the Purchaser and the Vendor will act honestly, diligently and in good faith in their respective endeavors to negotiate, settle and execute the Agreement within ♦ days following the execution of this Letter of Intent.
15. Exclusive Opportunity: Following the execution of this Letter of Intent, the Vendor will not negotiate or enter into discussions with any other party or offer the Property or any interest therein for sale *[or long-term lease]* to any other party until the time herein provided for settlement of the Agreement has expired *[or, negotiations pertaining to the Agreement are terminated on not less than ♦ days written notice to the Purchaser]*.
16. Not a Binding Agreement: This Letter of Intent *[except paragraph 8, paragraph 11, paragraph 14 and paragraph 15 hereof]* does not create a binding contract and will not be enforceable. Only the definitive Agreement, duly executed and delivered by the Vendor and the Purchaser, will be enforceable.
17. Acceptance: If you are agreeable to the foregoing terms, please sign and return a duplicate copy of this Letter of Intent by no later than by 5:00 p.m. ♦, 2002. Facsimile is acceptable.

Sincerely,

♦

♦ _____

The above terms are accepted this _____ day of _____, 2002.

♦

♦ _____

Schedule A

[Additional or Alternate Provisions]

Deposit:

Upon execution of the Agreement, the Purchaser will deliver to ♦ [e.g. the Purchaser's lawyer] for deposit in an interest bearing trust account, the amount of \$♦ (the "Deposit") which will be fully refundable in the event the ♦ [e.g. Inspection Condition and Financing Condition] (the "Conditions Precedent") are not satisfied or waived in writing by the Purchaser.

Upon removal of the ♦ [e.g. Inspection Condition], the Deposit will be increased to \$♦ and will be fully refundable in the event the ♦ [e.g. Financing Condition] is not satisfied or waived in writing by the Purchaser.

Upon removal of the ♦ [e.g. Financing Condition] the Deposit will be increased to \$♦ and will become non-refundable and, with interest, will be applied to the Purchase Price at Closing. The Purchaser may cancel the Agreement at any time prior to satisfaction of the Conditions Precedent by written notice to the Vendor, and the Deposit and interest will be returned to the Purchaser. In the event of default by the Vendor at Closing or failure by the Vendor to satisfy a Closing Condition in the Agreement, the Deposit and interest will, at the Purchaser's option, be returned to the Purchaser. The Deposit and interest will be retained by the Vendor as its sole remedy if the Purchaser defaults at Closing.

Inspection Period: The Purchaser will have ♦ days (the "Inspection Period") from the execution of the Agreement [or, delivery of the Materials] to examine the Materials, inspect [conduct physical inspections of] the Property and complete its other due diligence investigations. The Purchaser may cancel the Agreement at any time during the Inspection Period by written notice to the Vendor, and the Deposit and interest will be returned to the Purchaser.

Financing Contingency: The Purchaser will have ♦ days (the "Financing Period") following the expiration of ♦ [e.g. the Inspection Period] to obtain satisfactory [first and second] mortgage financing [in an amount not less than \$♦]. If unsuccessful, the Purchaser may cancel the Agreement at any time during the Financing Period by written notice to the Vendor, and the Deposit and interest will be returned to the Purchaser.

Permits: The Purchaser will be responsible for obtaining all permits and any other authorizations or confirmations from municipal or other approving authorities which may be required by the Purchaser or the Purchaser's lender. The Vendor will provide all necessary consents and authorizations as reasonably requested. [The Purchaser will not request any governmental inspections of the Property].

Reliance Letters: The Vendor will provide the Purchaser, as part of the Materials, with all ♦ [e.g. appraisal, environmental, engineering, structural, mechanical, soils, drainage, foundation and roof reports and other reports pertaining to the condition or status of the Property] reports in its possession or control and will [make its best efforts to] obtain [within the Inspection Period] reliance letters to permit the Purchaser and its lender(s) to rely on such reports.

Environmental Warranty: The Vendor warrants and represents that the Vendor is not aware of any hazard or adverse environmental condition affecting the Property *[except as disclosed in the Materials]*.

Sales Commissions: The Vendor will be solely responsible for payment of sales commission *[or, a finders fee]* to ♦ in connection herewith.

[or, Neither the Purchaser nor the Vendor has dealt with any [other] broker in connection herewith.]

[or, Each of the Vendor and Purchaser will be responsible to any pay any sales commission or finders fee incurred by them respectively in connection herewith.]

[or, The Purchaser and the Vendor will each indemnify and hold harmless the other against any claim arising out of the acts of the indemnifying party for a commission, finders fee or similar compensation made by any [other] broker in connection herewith.]

Tenant Estoppel Certificates: The Vendor will deliver to the Purchaser, at least ♦ days before Closing, current tenant estoppel certificates *[e.g. representing not less than ♦ % of the tenants by number and ♦ % by rentable area]* that are acceptable to the Purchaser and the Purchaser's lender, acting reasonably, confirming, among other things, the information set forth in the rent roll. *[failing which, the Purchaser may cancel the Agreement by written notice to the Vendor, and the Deposit and interest will be returned to the Purchaser.]*

Tenant Inducements and Commissions: Any tenant inducement granted by the Vendor prior to Closing, including free rent and any improvement allowance, and all leasing costs, including commissions, will be paid by the Vendor or debited to the Vendor at Closing.

Conduct of Business: While the Letter of Intent *[or the Agreement]* remains in effect, the Vendor will operate the Property in the normal and usual course and will keep the Purchaser fully informed with respect to leasing opportunities or ongoing negotiations *[and all other material circumstances, including pending or actual litigation, notices received, tenant defaults or impending defaults]* which may arise.

Extension of Condition Date(s): The Purchaser will have the right, on ♦ occasion(s), to extend the date for satisfaction or waiver to the Condition(s) Precedent for a period of ♦ *[in each instance]*, upon payment to the Vendor *[or, the Vendor's lawyer, in trust]*, *[in each instance]*, as non-refundable consideration for *[each]* such extension, the sum of \$♦, which will be applied *[or, will not be applicable]* to the Purchase Price at Closing.

Extension of Closing Date: The Purchaser will have the right, on ♦ occasion(s), to extend the Closing Date, upon payment to the Vendor *[or, the Vendor's lawyer, in trust]*, *[in each instance]*, as non-refundable consideration for *[each]* such extension, the sum of \$♦, which will be applied *[or, will not applicable]* to the Purchase Price at Closing.

As is: The Purchaser will acquire the Property on the Closing Date in "as-is" condition, as of the date of satisfaction or written waiver of the Inspection Condition.

No Warranties: The Purchaser has relied solely upon its own due diligence examinations and inquiries and acknowledges that the Vendor has made no warranty or representation with respect to the state or condition of the Property upon which the Purchaser has relied. *[except those expressly set out herein]*.