

# Disclaimer/Instructions - PrivateList Agreement Of Purchase And Sale

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*IMPORTANT! PrivateList makes no warranties or representations regarding this guide or the contract it refers to, and assumes no liability for any claims, losses, or damages arising from their use.*

*An Agreement Of Purchase And Sale, when signed by all parties, is a legally binding contract. This guide is held to be neither exhaustive nor definitive in the assistance it provides: it is highly recommended that you have your lawyer review any clauses you are unsure of before you sign the Agreement Of Purchase And Sale - not necessarily to tell you whether it's a good deal, but just to ensure that the Agreement says what you think it says.*

*All the terms of the contract between Buyer and Vendor must be in writing, as the Agreement explicitly excludes any verbal commitments. Feel free to append additional clauses if needed, or to strike out any that don't apply.*

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## General Negotiating Procedure

Normally, the Buyer will present the Vendor with a signed and witnessed offer, which the Vendor may accept by affixing their signature and that of a witness. This creates a binding contract between Buyer and Vendor, and if there are no conditions in the Agreement the property is SOLD.

If there *are* conditions, you have a PENDING sale: the Agreement could still fall apart (and you should therefore continue to market the property and seek a *backup* offer) up until the time that all the conditions have been fulfilled.

The vendor's other two options upon receiving an offer are either to reject it entirely and end the negotiations, or to amend it, initial all changes, sign it (and have it witnessed) and present it as a *counter-offer* to the Buyer for their consideration.

***It is critical to understand that any change whatsoever to an offer (or counter-offer) extinguishes it, leaving the party that presented it free to walk away.*** If an offer, therefore, is at all close to meeting your requirements, think very carefully about countering - you may lose the deal entirely.

Copies of intermediate offers and final agreements must be provided for all parties to the contract (and their solicitors). For the sake of legibility, it is preferable to pass the original offer back and forth between parties as changes are made and initialled, rather than to rely on successive generations of photo-copies; once final Agreement has been reached, first-generation photo-copies can be distributed as required.

## Signatures

*The signatures of all purchasers and vendors must appear on the contract, as well as the appropriate initials for all intermediate and final amendments. (For example, if the original purchase price is changed by the Vendor (in a counter-offer) then changed again by the Buyer (in a counter-counter-offer) then accepted by the Vendor, the first price will be crossed out, the second price initialled by the Vendor then crossed out by the Buyer, and the final price initialled by both Buyer and Vendor.)*

If a *corporation* is purchasing or selling the property, the signature of its signing authority should be accompanied by the corporate seal.

Once the final Agreement has been accepted and initialled, copies for each party should be distributed and the footer *on every page of every copy* then dated and initialled by all parties. Copies of *these* documents can then be prepared for the purchaser's and vendor's solicitors.

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