

# Commercial Non-Binding Offer to Lease



## COMMERCIAL NON-BINDING OFFER TO LEASE

This offer is between

THE LANDLORD

and

THE TENANT

Name \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_



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The tenant offers to lease the Premises on the following terms and conditions:

### 1. THE PREMISES

1.1 The premises are (choose one):

☐ the entire parcel of the lands described below (the "Lands")

OR

☐ a portion of the Lands, comprising approximately \_\_\_\_\_ square feet, more or less, as outlined in the attached Plan Identifying Location of Premises Schedule. The exact area will be measured in accordance with the Landlord's standard form of lease (the "Lease"),

including all buildings, fixtures (other than trade fixtures), and improvements located on the Lands (collectively, the "Premises").

1.2 The Lands are municipally and legally described as follows:

Municipal Address: \_\_\_\_\_

Legal Description: Plan \_\_\_\_\_ Block/Unit \_\_\_\_\_ Lot \_\_\_\_\_

### 2. GENERAL TERMS

2.1 In fulfilling this offer, the landlord and the tenant agree to act reasonably and in good faith and agree that:

- (a) unless the landlord, tenant or both have agreed to alternate representation, the landlord and tenant are each represented by their own sole agent and those agents have no agency responsibility to the other party;
- (b) the laws of Alberta apply to this offer;
- (c) Alberta time applies to this offer. Time is of the essence, which means times and dates will be strictly followed and enforced;
- (d) Business Day means every day but Saturday, Sunday and statutory holidays and includes all the hours of the day;
- (e) a reference to the landlord or tenant includes singular, plural, masculine and feminine;
- (f) The tenant may get independent inspections or advice on items such as land title, registrations on title, Real Property Reports, current and future use, buildings and mechanical systems, property insurance, size of the land and buildings, interior and exterior measurements and other items important to the tenant;
- (g) document changes that are agreed to in writing will supersede the pre-printed clauses;
- (h) the landlord and tenant will read this offer and seek relevant advice before signing it;
- (i) the brokerages, real estate board and listing services may keep and disclose relevant information about this transaction for reporting, statistical, property evaluation and closing purposes; and

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PREVIOUS PAGE

NEXT PAGE

INITIALS	
Landlord	Tenant

# Commercial Non-Binding Offer to Lease



- (j) the \_\_\_\_\_ (landlord's or tenant's) brokerage will provide this offer and related documents to the appointed lawyers for the purpose of completing the lease transaction.

### 3. TERM

- 3.1 The Lease shall be for a term of \_\_\_\_\_ years and \_\_\_\_\_ months (the "Term"), commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Commencement Date") and expiring on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

### 4. RENEWAL

- 4.1 If the tenant is not in default of any of the terms and conditions of the Lease, the tenant will have the right, upon written notice delivered to the landlord not later than \_\_\_ months prior to the end of the Term, for a further \_\_\_ options to renew the Lease for a further \_\_\_\_\_ year term on the same terms and conditions of the Lease save and except for: this option to renew; the Landlord's Work, the Tenant's Work, any inducements described in clause 8, and Basic Rent. Basic Rent will be determined by agreement between the landlord and the tenant or, failing such agreement at least \_\_\_ months before the commencement of the renewal term, will be determined by arbitration according to the *Arbitration Act* (Alberta).

### 5. BASIC RENT

- 5.1 The tenant will pay the landlord basic rent at the rate set out below, exclusive of Operating Expenses, payable in equal monthly instalments on the first day of each calendar month during the Term ("Basic Rent"):

Time Period	Annual per square foot rate (if not the entire parcel of the Lands)	Monthly Amount	Annual Amount

### 6. ADDITIONAL RENT

- 6.1 "Operating Expenses" means the aggregate of all of the landlord's expenses, costs, and charges which are incurred in respect of the operation, maintenance, repair, administration and supervision of the Premises and the Lands, and includes property taxes, insurance and utility costs, as set out in more detail in the Additional Rent Schedule, selected as attached in clause 15.1.
- 6.2 "Proportionate Share" means the area of the Premises divided by the total rentable area of the development, as determined by measurement by the landlord as provided for in the Lease.
- 6.3 The tenant will pay the landlord the Operating Expenses incurred by the landlord in connection with the Premises as outlined in the Additional Rent Schedule, selected as attached in clause 15.1. If the tenant is leasing only a portion of the Lands, then the tenant shall only pay its Proportionate Share of the Operating Expenses (in either case, "Additional Rent").
- 6.4 The landlord may reasonably estimate Additional Rent payable by the tenant for any period of the Term and notify the tenant of that estimated amount in advance of the period in question, in which case the tenant will pay to the landlord such estimated Additional Rent in equal instalments monthly in advance.
- 6.5 Operating Expenses are currently estimated by the landlord to be: \$ \_\_\_\_\_. This amount is subject to change at any time.

### 7. GOODS AND SERVICES TAX

- 7.1 The tenant will pay the landlord Goods and Services Tax ("GST") in addition to every payment of Basic Rent and Additional Rent payable pursuant to the Lease.



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INITIALS	
Landlord	Tenant

# Commercial Non-Binding Offer to Lease



## 8. INDUCEMENTS

- 8.1 The landlord will pay or grant to the tenant the following inducements (check all that apply):
- ☐ free Basic Rent for the following period: \_\_\_\_\_
  - ☐ free Additional Rent for the following period: \_\_\_\_\_
  - ☐ a tenant improvement allowance of \$ \_\_\_\_\_, payable when all the following requirements are satisfied: (a) the Lease has been signed, (b) the Commencement Date has occurred, (c) the tenant has provided satisfactory proof to the landlord of tenant's payment for all Tenant's Work, (d) all builder's lien periods have expired, and title to the Lands is clear of any liens registered with respect to the Tenant's Work, and (e) \_\_\_\_\_.
  - ☐ other: \_\_\_\_\_
- 8.2 The landlord will pay GST to the tenant in addition to the amount of any cash inducement or tenant improvement allowance payable pursuant to this offer.

## 9. DEPOSIT

- 9.1 The landlord and tenant agree that clauses 9.2 to 9.7 are the terms of trust for the deposits.
- 9.2 The landlord and tenant appoint \_\_\_\_\_ as trustee for the deposit money.
- 9.3 The tenant will pay a deposit of \_\_\_\_\_, which includes GST, to the trustee by \_\_\_\_\_ (method of payment), on or before \_\_\_\_\_, to be applied as follows:
- (a) on account of the first \_\_\_\_\_ month(s) Basic Rent and Additional Rent; and
  - (b) the balance to be held as security for the performance by the tenant of all of the terms, covenants and conditions in this offer and in the Lease on tenant's part to be observed and performed.
- 9.4 If the tenant fails to pay the deposit by the agreed date, the landlord may terminate this offer by giving the tenant written notice. The landlord's option expires when the landlord accepts a deposit even if late.
- 9.5 The trustee will deposit the deposit into a trust account within three Business Days of receipt.
- 9.6 Interest on the deposit will not be paid to the landlord or tenant.
- 9.7 The Deposit shall be held in trust for both the landlord and the tenant by the Trustee. Provided funds are confirmed, the Deposit will be disbursed, without prior notice, as follows:
- (a) To the tenant, if the offer is not accepted, a condition is not satisfied or waived (as per clause 14), the landlord fails to perform this offer, or the Lease is not executed in accordance with clause 16.4; or
  - (b) To the landlord, within three Business Days after execution of the Lease by both parties, to be held by the landlord, without liability for interest, as set out in clause 9.1.
- 9.8 The disbursement of the Deposit, as agreed to in this clause, will not prevent the landlord or the tenant from pursuing any other remedies available to it at law.
- 9.9 The following additional security shall be provided by the tenant to the landlord: \_\_\_\_\_.

## 10. WORK, POSSESSION, CONDITION

- 10.1 The landlord will perform in the Premises the work described in the Landlord's Work Schedule at Landlord's Cost ("Landlord's Work").
- 10.2 The landlord grants to the tenant a fixturing period of \_\_\_\_\_ days in advance of the Commencement Date (the "Fixturing Period"). Basic Rent and Additional Rent are not payable during the Fixturing Period, but the tenant will pay for all utilities it consumes during the Fixturing Period.
- 10.3 The landlord will grant vacant possession of the Premises to the tenant on the Commencement Date (or, at the start of the Fixturing Period, as applicable), but only if (a) the tenant has signed the Lease and (b) the tenant has provided proof of insurance with respect to the Premises satisfactory to the landlord. At the time of possession the tenant may perform the work described in the Tenant's Work Schedule at Tenant's cost (the "Tenant's Work").

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PREVIOUS PAGE

NEXT PAGE

INITIALS	
Landlord	Tenant

# Commercial Non-Binding Offer to Lease



- 10.4** The tenant has inspected the Premises and accepts the Premises in "as is" condition, subject to performance of the Landlord's Work, if applicable.
- 10.5** The tenant will surrender the Premises at the end of the Term in substantially the same condition as the Premises were in at the commencement of the Term, with the exception of reasonable wear and tear. Removal of tenant's fixtures and leasehold improvements will be governed as provided for in the Lease.
- 10.6** The landlord is responsible for any pre-existing environmental condition, if any, existing at the Premises, prior to the time the tenant takes possession.
- 10.7** The tenant is responsible for all environmental events and conditions which occur during the Term, and the tenant will indemnify and hold harmless the landlord with respect to such environmental conditions and events.

## 11. PARKING

- 11.1** The landlord will provide \_\_\_\_\_ underground and \_\_\_\_\_ above-ground parking stalls for the use of the tenant for the Term, which parking stalls shall be:
- ☐ unassigned.
- ☐ assigned to the tenant as stall numbers: \_\_\_\_\_.
- 11.2** The monthly charge for the parking stall(s) will be:
- ☐ \$ \_\_\_\_\_ per underground stall per month, plus GST, during the Term; or
- ☐ \$ \_\_\_\_\_ per above-ground stall per month, plus GST, during the Term; or
- ☐ \$ \_\_\_\_\_ per month, plus GST, at the commencement of the Term subject to periodic adjustment at the landlord's discretion upon 30 days written notice to the tenant; or
- ☐ included in Basic Rent.

## 12. SIGNAGE

- 12.1** If the Premises are part of a multi-tenant building, the landlord will install at its own expense directory and elevator identification signage for the tenant, in the landlord's standard design for the building in which the Premises are located.
- 12.2** The tenant may install at its own expense, the following signage:

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subject to (a) the landlord's written approval, not to be unreasonably withheld, as to design and location, (b) compliance with all applicable municipal bylaws, laws, regulations and codes, and (c) payment of a monthly fee of \$ \_\_\_\_\_ plus GST. The tenant shall remove all exterior identification signage at the termination of the Lease, and repair all damages resulting from such removal.

## 13. USE AND EXCLUSIVITY

- 13.1** The tenant will occupy and use the Premises only for the following purpose and no other. This use is subject to the restrictions and prohibitions set out in the Lease:
- \_\_\_\_\_
- \_\_\_\_\_
- 13.2** Subject to the exceptions and limitations set out below, the landlord will not use or allow to be used any part of the Lands, other than the Premises, for the following purposes (the "Exclusivity"):
- \_\_\_\_\_
- 13.3** This Exclusivity:
- (a) applies only for so long as the tenant has not assigned the Lease or sublet any part of the Premises;

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PREVIOUS PAGE

NEXT PAGE

INITIALS	
Landlord	Tenant



# Commercial Non-Binding Offer to Lease



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- (b) applies only if the tenant has not been in default under the Lease;
- (c) applies only until the tenant ceases to continuously carry on its permitted use from the entire Premises;
- (d) does not apply to any other lessee of the Lands who has made an offer to lease accepted by the landlord, or entered into a lease, before the date of this offer or the Lease; and
- (e) is ineffective should now or at any future time the Exclusivity be held illegal or unlawful under any law, regulation or government order.

## 14. CONDITIONS

### 14.1 The landlord and the tenant will:

- (a) act reasonably and in good faith in trying to satisfy their own conditions, including making reasonable efforts to fulfill them; and
- (b) pay for any costs related to their own conditions.

### 14.2 Tenant's Conditions

The tenant's conditions are for the sole benefit of the tenant and are:

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before \_\_\_\_\_.m. on \_\_\_\_\_, 20\_\_.

### 14.3 Landlord's Conditions

The landlord's conditions are for the sole benefit of the landlord and are:

- (a) This offer is subject to the landlord being satisfied with the creditworthiness and general acceptability of the tenant as a suitable lessee before \_\_\_\_\_.m. on \_\_\_\_\_, 20\_\_. The tenant will cooperate with the landlord as may be required to assist the landlord in the landlord's credit and other investigations of the tenant. In particular, within \_\_\_\_\_ days after request by the landlord, the tenant will provide the landlord with such information as the landlord requests regarding the tenant's financial standing, creditworthiness and corporate organization.

- (b) This offer is subject to the following additional landlord's conditions:

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before \_\_\_\_\_.m. on \_\_\_\_\_, 20\_\_.

### 14.4 Each party will give the other written notice that:

- (a) A condition is unilaterally waived or satisfied on or before the date upon which it expires. If not, this offer will end after the time indicated for that condition; or
- (b) A condition will not be waived or satisfied on or before the date upon which it expires. This offer will end upon that notice being given.

## 15. ATTACHMENTS AND ADDITIONAL TERMS

### 15.1 The selected documents are attached to and form part of this offer:

- ☐ Additional Rent Schedule
- ☐ Landlord's Standard Form Lease
- ☐ Landlord's Work Schedule
- ☐ Tenant's Work Schedule
- ☐ Addendum

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PREVIOUS PAGE

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NEXT PAGE

INITIALS	
Landlord	Tenant

# Commercial Non-Binding Offer to Lease



☐ Plan Identifying Location of Premises

☐ Other: \_\_\_\_\_

15.2 Other terms:

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## 16. LEASE

- 16.1** The landlord will prepare the Lease, completing and amending it only as is necessary to incorporate the provisions of this offer, and deliver it to the tenant within \_\_\_\_ Business Days of communication of acceptance of this offer.
- 16.2** The landlord will further amend the Lease to incorporate such changes as have been requested by tenant, acting reasonably, and which have been agreed to by the landlord acting reasonably.
- 16.3** The tenant acknowledges that, unless otherwise permitted by the landlord, the tenant is not entitled to possession of the Premises for any purpose until the Lease is executed and delivered by the tenant to the landlord and approved and executed by the landlord.
- 16.4** The landlord and the tenant shall execute the Lease within \_\_\_\_ Business Days of the landlord delivering the Lease to the tenant in accordance with clause 16.1 (subject to any changes agreed to by the landlord and the tenant), failing which this offer shall be null and void.

## 17. ASSIGNMENT AND SUBLEASE

- 17.1** The tenant will not assign this offer of the Lease, or sublet all or any part of the Premises, without the written approval of the landlord, such approval not to be unreasonably withheld. Any assignment or subletting by the tenant will not relieve the tenant of liability under this offer or the Lease.

## 18. NOTICE

- 18.1** A notice under this offer means a written document, including notices required by this offer, and this offer when accepted.
- 18.2** A notice is effective at the time the document is delivered in person or sent by fax or email.
- 18.3** Giving notice means the document is transmitted by one of these methods, and regardless of the method, the notice document is recognized as an original document.
- 18.4** For documents that require a signature, an electronic signature, as defined in the *Electronic Transactions Act* (Alberta), or a digitized signature will have the same function as an ink signature.

## 19. AUTHORIZATION

- 19.1** The landlord and the tenant may each authorize a representative to send and receive notices as described above. Once authorized, notices will be effective upon being delivered in person or sent by fax or email to the authorized representative.

The landlord authorizes:

**Landlord's Brokerage:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**Brokerage Representative:**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

The tenant authorizes:

**Tenant's Brokerage:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**Brokerage Representative:**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_



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INITIALS	
Landlord	Tenant

# Commercial Non-Binding Offer to Lease



**19.2** If the landlord or tenant does not authorize a brokerage, then:

The landlord authorizes: \_\_\_\_\_

The tenant authorizes: \_\_\_\_\_

**19.3** If the authorization information changes, the landlord and the tenant agree to give written notice to the other party as soon as the change is known so that future notices may be sent to the proper person and place.

## 20. NON-BINDING AGREEMENT

**20.1** This offer does not constitute a legally binding obligation on the parties. Only once the Lease is finalized and executed by both parties shall there be a binding obligation respecting the lease of the Premises from the landlord to the tenant.

**20.2** The landlord and the tenant each acknowledge that, except as otherwise described in this offer, there are no other warranties, representations or collateral agreements made by or with the other party, the landlord's brokerage and the tenant's brokerage about the property, any neighbouring lands, and this transaction, including any warranty, representation or collateral agreement relating to the size/measurements of the land and buildings or the existence or nonexistence of any environmental condition or problem.

**20.3** Any changes made to the terms of this offer must be agreed to by both the landlord and the tenant in writing.

## 21. OFFER

**21.1** The tenant offers to lease the Premises according to the terms of this offer.

**21.2** This offer/counter offer shall be open for acceptance in writing until \_\_\_\_\_.m. on \_\_\_\_\_, 20\_\_\_\_\_.

SIGNED AND DATED at \_\_\_\_\_, Alberta at \_\_\_\_\_.m. on \_\_\_\_\_, 20\_\_\_\_\_.

TENANT (CORPORATE NAME)

Per: \_\_\_\_\_  
Authorized Signing Officer

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name of Authorized Signing Officer

\_\_\_\_\_  
Print Name of Witness

Per: \_\_\_\_\_  
Authorized Signing Officer

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name of Authorized Signing Officer

\_\_\_\_\_  
Print Name of Witness

Tenant's GST # \_\_\_\_\_

## 22. ACCEPTANCE

**22.1** The landlord accepts the tenant's offer and agrees to prepare a Lease according to the terms of this offer.

SIGNED AND DATED at \_\_\_\_\_, Alberta at \_\_\_\_\_.m. on \_\_\_\_\_, 20\_\_\_\_\_.

LANDLORD (CORPORATE NAME)

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information

PREVIOUS PAGE

NEXT PAGE

INITIALS	
Landlord	Tenant

## AREA EXPLANATORY FORM

# Commercial Non-Binding Offer to Lease



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Per: \_\_\_\_\_  
Authorized Signing Officer

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name of Authorized Signing Officer

\_\_\_\_\_  
Print Name of Witness

Per: \_\_\_\_\_  
Authorized Signing Officer

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name of Authorized Signing Officer

\_\_\_\_\_  
Print Name of Witness

Landlord's GST # \_\_\_\_\_

### INFORMATION

The following is for information purposes and has no effect on the offer terms:

### LEASE INFORMATION

#### Landlord's Information

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

#### Tenant's Information

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

#### Lawyer's Information

Firm: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

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INITIALS	
Landlord	Tenant

[PREVIOUS PAGE](#)

[NEXT PAGE](#)