
HIGHLIGHTS

The OACIQ began the task of **modernizing its recommended forms in 2024**. The purpose of this work is to **harmonize all brokerage forms** with the changes introduced in 2022 and 2023 to forms relating to residential immovables containing less than 5 dwellings and immovables held in co-ownership and to ensure their compliance with the *Real Estate Brokerage Act* (R.S.Q., c. C-73.2) and the regulations thereunder.

No substantial change has been made to the recommended form *Exclusive brokerage contract – Sale – Immovable* (BCG) as part of this harmonization work.

The recommended form BCG may be used for transactions concerning immovables containing 5 or more dwellings or commercial immovables.

CLAUSE 2.1 – OBJECT AND TERM OF CONTRACT

Harmonization with mandatory form EBCS

A clarification has been made in this clause concerning the reason for terminating the contract. The brokerage contract is a service contract (art. 2125, 2126 C.C.Q.). The client may terminate such a contract without a reason. The agency or broker, who is the service provider, must have a serious reason for terminating the contract unilaterally, and such termination must not harm the client.

CLAUSE 4 – PRICE AND TERMS OF SALE (PLUS TAXES, IF APPLICABLE)

Harmonization with mandatory forms EBCS, EBCU

Clause 4.2

The references to taxes that may be imposed during the sale has been eliminated, as this is an obligation of the buyer towards the seller, whereas the buyer is not part of the brokerage contract. In addition, this obligation already appears under clause 4.2 of the form *Promise to purchase - Immovable*.

Clause 4.3 – Existing loans (undivided co-ownership)

The condition by which the buyer must obtain a loan from the financial institution designated by the seller has been removed. Although the nature of undivided co-ownership presumes that the undivided co-owners usually obtain their financing from the same institution, they have no legal obligation to do so. However, the parties may continue to include this special condition under clause 11.1.

Clauses 4.6 and 4.7 – Exclusions

A clarification has been made to make these easier to understand for the consumer.

CLAUSE 6 – INFORMATION LISTING SERVICES

Harmonization with section 44 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising (RBR).

Clause 6.2

Since March 23, 2023, section 44 of the RBR has been amended to eliminate any delay between the listing of the immovable on an information listing service for agencies and brokers and the beginning of marketing activities. Marketing cannot begin without this listing (of course, if the seller wants the immovable to be listed). In fact, listing the immovable on an information listing service is part of the marketing process, and these steps must be taken simultaneously. The aim is to combat the practices of 'pocket listing' or 'coming soon.' The client may not ask the broker to delay the listing of the immovable on an information listing service while it is already being offered for sale. For this reason, the reference to 'written instructions given by the SELLER' has been removed from this clause.

CLAUSE 7 – REMUNERATION

Harmonization with mandatory forms EBCS, EBCU

Clause 7.1

Clause 7.1 now explicitly specifies that taxes apply to the remuneration amount. This clarification has made it possible to eliminate clause 7.2 of the old form.

A few wording changes have been made to clause 7.1.

Clause 7.2 – Assignment of remuneration

The reference to the obligation by the agency or broker representing the seller to assign his claim to the agency or broker who collaborated in the transaction has been removed. Such a clause does not relate to the obligations of the parties to the contract (the agency or broker and the seller), but rather to the agreement that brokers and agencies may enter into with each other. Consequently, this clause should not be included in a brokerage contract with the seller.

Clause 7.4 par. 3 – No remuneration

An addition has been made to this clause to make it easier for consumers to understand when no remuneration is due. The agency or broker will not be entitled to remuneration if, through the buyer's fault, the deed of sale is not signed or the purchase price is not paid. Other wording changes have also been made.

CLAUSE 8 – DECLARATIONS AND OBLIGATIONS OF THE SELLER

Harmonization with mandatory forms EBCS, EBCD, EBCU, PP

Clause 8.1 par. 4 (Undivided co-ownership)

This clause is harmonized with clause 10.1.5 of the form *Promise to purchase – Immovable*. The seller must specify if the undivided co-owners have a pre-emptive right. The seller undertakes to obtain from the undivided co-owners a written waiver of their pre-emptive or redemption right and to remit it to his broker.

Clause 8.4 par.10 – Declarations of the seller

It is specified that, although the seller is the warrantor towards any potential buyer for any violation of the restrictions of public law that affect the immovable and that are exceptions to the ordinary law of ownership, he cannot assume this responsibility if such restrictions already appear on the certificate of location provided to the buyer. This is consistent with clause 10.6 of the *Promise to purchase – Immovable* (PPI), harmonized with clause 10.3 of the *Promise to purchase – Chiefly residential immovable containing less than 5 dwellings excluding co-ownership* (PP).

Clause 8.5 par. 1 – Seller’s right to offer the immovable for sale

A clarification is made to specify that the seller retains the right to sell his property himself, the concept of exclusivity being only applicable to agencies and brokers.

Clause 8.6 – Document to be provided by the seller (divided co-ownership)

This clause has been adjusted to include documents which a syndicate of co-owners must now have, i.e. a description of the private portion or, where applicable, that of the private portion of the reference unit, as well as documents and information relative to the self-insurance fund (art. 1070, 1071.1 C.C.Q.).

Clause 8.8 – Certificate of location

The certificate of location required of the seller must reflect any operation, amendment or cadastral renovation, as well as the current physical state of premises (e.g. heat pump, terrace, fence, shed, swimming pool), the restrictions of private law (e.g. servitude, real rights or other charges), and the restrictions of public law (e.g. municipal by-laws). An identical clause (10.6) has been included in the revised form *Promise to purchase - Immovable*.

Clause 8.12 has been removed – Undertaking to provide a valid title of ownership

Clause 8.12 regarding the undertaking to provide a valid title of ownership has been removed, as this is an obligation of the seller towards the buyer and the buyer is not part of the brokerage contract. In addition, this obligation already appears under clause 10.6 of the revised form *Promise to purchase – Immovable*.

CLAUSE 9 – OBLIGATIONS OF THE AGENCY OR THE BROKER

Harmonization with mandatory forms EBCS, EBCD, EBCU

Clause 9.1 par. 8 – Right to represent a buyer

The agency or broker has an obligation to inform the seller in writing, without delay, that he is also representing the prospective buyer of the immovable, for remuneration, where a brokerage contract with the buyer exists. Since double representation is prohibited for residential transactions, a clarification has been made to expressly exclude this type of transaction from this clause.

Clause 9.1 par. 9 – Obligation to disclose any remuneration agreement

The agency or broker must inform the seller, in writing and without delay, of any remuneration agreement in his favour related to the object of the brokerage contract. This clause was harmonized with the new wording of section 36 of RBR which came into force on March 23, 2023.

Clause 9.1 par. 11 – Obligation to disclose any remuneration sharing

In order to ensure transparency and provide better information to the public, the agency or broker must disclose in writing to the seller any sharing, other than the one mentioned in clause 7.3, which he is planning to make of his remuneration, as well as the identity of the person receiving the share and, in case of a non-monetary benefit, the nature of the compensation. This clause is consistent with the obligation under section 38 of the RBR.

Clause 9.1 par. 13 a) – Obligation to notify of a change of address of the establishment

The broker or agency party to the brokerage contract must notify the seller, in writing and without delay, of any change in the address of his establishment. This clause is consistent with the obligation under section 27 of the RBR.

Clause 9.1 par. 15 – Obligation to provide a duplicate of the contract

The broker or agency party to the brokerage contract must give a duplicate of the contract to the client. This clause is consistent with obligation under section 25 of the REBA.

CLAUSE 15 – SIGNATURES

Harmonization with mandatory form EBCS

Box preceding the signatures – Privacy protection

As private entities, agencies and brokers acting on their own account are subject to the *Act respecting the protection of personal information in the private sector* (R.S.Q., c. P-39.1). The purpose of the box on privacy protection is to remind agencies and brokers of their obligations and to inform consumers of these obligations.

IMPORTANT: This box does not replace the obligation of the agency or broker acting on his own account to systematically obtain valid consent when collecting, using, keeping, or communicating personal information.

Box preceding the signatures – Role of the OACIQ

In accordance with section 16.2 of the RBR, this box contains an informative text presenting the mission of the OACIQ. By providing the party with the revised BCG form containing this box, the agency or broker complies with the obligation set out in section 16.2 and is not required to provide any other documentation on the role of the OACIQ.

OTHER CHANGES ARE STRUCTURAL OR TECHNICAL IN NATURE.