
HIGHLIGHTS

The OACIQ began the task of **modernizing its recommended forms**. 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 *Promise to purchase – Immovable* (PPG) as part of this harmonization work.

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

CLAUSE 4 – PRICE AND DEPOSIT (plus taxes, if applicable)

Harmonization with mandatory form PP

Clause 4.3 – Deposit

This clause now provides for two time options to pay a deposit if the buyer so chooses, either with the promise to purchase or within 72 hours following the fulfilment of the conditions outlined in the promise to purchase, excluding the signing of the deed of sale and the payment of the purchase price.

If the buyer fails to pay the deposit within 72 hours following the fulfilment of conditions outlined in the promise to purchase, the promise to purchase does not automatically become null and void.

The seller may, within five days following the end of the 72-hour period, grant the buyer an additional period to pay the deposit, the duration of which is at the seller's discretion. If the buyer does not pay the deposit within this additional period, the promise to purchase becomes null and void. If the seller does not intervene, he shall be deemed to have waived the deposit condition, and the promise shall remain valid.

Brokers must advise their clients on the implications of this clause. In addition, if the deposit is to be placed in the trust account of the agency or broker acting on his own account for the buyer, the buyer must immediately inform the agency or broker acting on his own account for the seller upon receipt of the amount to protect the parties to the transaction.

To simplify the payment of the deposit, an electronic transfer option is available, whether from abroad or from Canada, as well as payment by bank draft.

CLAUSE 6 – NEW HYPOTHECARY LOAN

Harmonization with mandatory forms PP, PPU

Clause 6.1 – Terms and conditions

The Autorité des marchés financiers (AMF) is responsible for mortgage brokerage oversight. However, the obligation of declaration concerning the existence of the mortgage brokerage contract remains. As before, the agency or broker must continue to respect the exclusive nature of the mortgage brokerage contract.

Clause 6.3 – Absence of undertaking (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 undivided co-ownership generally implies that the undivided co-owners 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 12.1.

CLAUSE 7 – DECLARATIONS AND OBLIGATIONS OF THE BUYER

Harmonization with mandatory form PP

Clause 7.6 – Damages

A clarification has been made to help the buyer clearly understand the consequences of refusing to sign the deed of sale. In the event of a dispute, if the court rules in favour of the seller or his broker, the buyer could be required to pay damages to both the seller and the broker (or agency) bound to the seller. Note that payment of damages is not automatic (and never has been) and requires legal action in courts.

CLAUSE 9 – REVIEW OF DOCUMENTS BY THE BUYER

Harmonization with mandatory form PPD

Clause 9.1 – Obligation to provide documents of the syndicate of co-owners

Some documents have been added to those that the buyer may review and that the syndicate of co-owners must have. These include a description of the private portion or, where applicable, that of the private portion of the reference unit (art. 1070 C.C.Q.), and the documents relating to the self-insurance fund (art. 1071.1 C.C.Q.).

CLAUSE 10 – DECLARATIONS AND OBLIGATIONS OF THE SELLER

Harmonization with mandatory form PP

Clause 10.1 par. 8 – New clause – Sale with legal warranty

Although the legal warranty of ownership and quality exists solely by operation of law (i.e. it does not have to be mentioned), it has been deemed useful, for the benefit of consumers, to expressly indicate in this new clause the obligation to sell with such a warranty, unless otherwise stipulated.

Clause 10.2 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 appear on the certificate of location provided to the buyer. This is consistent with clause 10.6.

Clause 10.6 – 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, 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 has been included in the revised form *Brokerage contract – Sale – Immovable*.

Clause 10.8 – Defect or irregularity

It is specified that notification of defect or irregularities is done following the fulfilment of conditions outlined in the promise to purchase. It is also specified that irregularities can affect the titles of the immovable.

Clause 10.10 – Damages

A clarification has been made to help the seller clearly understand the consequences of refusing to sign the deed of sale. In the event of a dispute, if the court rules in favour of the buyer or his broker, the seller could be required to pay damages to both the buyer and the broker (or agency) bound to the buyer. Note that payment of damages is not automatic (and never has been), and requires legal action in courts.

CLAUSE 11 – DECLARATIONS AND OBLIGATIONS COMMON TO THE BUYER AND THE SELLER

Harmonization with mandatory form PP

Clause 11.2 – Occupancy of premises

This clause now provides for possibility, by means of a stipulation under clause 12.1, of releasing the seller from his responsibility to keep the premises in the condition they were in when the buyer visited them, if the seller vacates the premises before the date of occupancy.

Clauses 11.7 and 11.8 – Contracts and services to be assumed by the buyer

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

CLAUSE 17 – SIGNATURES

Box preceding the signatures – Role of the OACIQ

In accordance with section 16.2 of the *Regulation respecting brokerage requirements, professional conduct of brokers and advertising* (c. C-73.2, r.1), this box contains an informative text presenting the mission of the OACIQ. By providing the party with the revised PPG 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.

Seller's reply

The seller's reply now includes a reference to a potential enhancement offer that could follow the promise to purchase.

OTHER CHANGES ARE STRUCTURAL OR TECHNICAL IN NATURE.