

# OFFER TO LEASE

## INFORMATION ABOUT THIS OFFER TO LEASE

THIS INFORMATION IS INCLUDED FOR THE ASSISTANCE OF THE PARTIES ONLY. IT DOES NOT FORM PART OF THE CONTRACT AND DOES NOT AFFECT THE PROPER INTERPRETATION OF ANY OF ITS TERMS.

- A. **LEASES:** Understanding leases is of the utmost importance in the operation and ownership of investment properties such as offices, retail stores, industrial buildings and the operation and ownership of businesses. The leases establish the present and future income from the property and play a major role in determining property value. Leases form a significant expense for many businesses.

As offers to lease and leases tend to be complex and difficult to read, they should be read over carefully as their terms and conditions will vary significantly from lease to lease.

When completed, the Lease should include all terms and conditions that the parties have agreed to, and each page should be initialled by all parties to confirm that they have read and agreed to all of the terms of the Lease.

There are a wide variety of offers to lease, meant to cover the multitude of requirements of landlords and tenants. This Offer to Lease is a generic document and as such it will not be suitable for every situation. **Some situations it does not cover include:**

- early occupation by the tenant or access during the fixturing period,
- tenant improvement allowances and other tenant incentives,
- right of first refusal or options to lease adjoining space,
- right of first refusal or option to buy the premises,
- parking, signage or registration of the lease,
- percentage rents.

Each of these requirements should be addressed by attaching a separate schedule with the appropriate wording reflecting the requirements of the landlord or prospective tenant in this regard. When complete, read it over carefully to ensure that the schedule contains every additional term that the parties have agreed to.

- B. **FLOOR MEASUREMENT OF COMMERCIAL PROPERTIES:** Uniformity and consistency in carrying out floor measurements is very important. The "Standard Method of Floor Measurement for Office Buildings" used by the Building Owners and Managers Association ("BOMA") and the Society of Industrial & Office REALTORS<sup>®</sup>, is recommended by The Canadian Real Estate Association.

Under the BOMA requirements, the rentable area of a multiple tenancy floor, whether above or below grade, is the sum of all rentable areas on that floor. The rentable area of an office on a multiple tenancy floor should be computed by measuring to the inside finish of permanent outer building walls, or to the glass line if at least 50% of the outer building wall is glass, to the office side of corridors and/or other permanent partitions, and to the centre of partitions that separate the premises from adjoining rentable areas. No deductions shall be made for columns and projections necessary to the building.

The rentable area of a single tenancy floor, whether above or below grade, should be computed by measuring to the inside finish of permanent outer building walls, or from the glass line where at least 50% of the outer building wall is glass. Rentable area shall include all area within outside walls, less stairs, elevator shafts, flues, pipe shafts, vertical ducts, air-conditioning rooms, fan rooms, janitor closets, electrical closets and such other rooms not actually available to the tenant for their furnishings and personnel and their enclosing walls. Toilet rooms within and exclusively serving only that floor shall be included in rentable area. No deductions shall be made for columns and projections necessary to the building.

To determine the number of square feet (or square metres) in a ground floor rentable store area, measure from the building line in the case of street frontages and from the inner surface of corridor and other permanent partitions and to the centre of partitions that separate the premises from adjoining rentable areas. No deduction should be made for vestibules inside the building line or for columns or projections necessary to the building. No addition should be made for bay windows extending outside the building line.

In addition to the foregoing, it is also recommended that in the case of industrial and warehouse buildings, the method of measurement now in practice be followed. For example, free-standing buildings with parking, loading and some useable storage area around the building should be measured on an "out to out" basis whereby the outside perimeter wall is used to calculate the gross rentable area. In multi-tenancy buildings, the floor space is calculated from the outside wall to the center of the party wall.



# OFFER TO LEASE

DATED: \_\_\_\_\_

The Tenant hereby offers to lease (the "Offer") from the Landlord certain premises described below, on the following terms and conditions:

## Part 1 – INFORMATION SUMMARY

1. PREPARED BY						PARA REF.	
1.1. Name of Brokerage							
1.2. Brokerage Address							
1.3. Licensee (a licensee may be the Brokerage's managing broker(s), associate broker(s) or representative(s))							
1.4. Brokerage Phone Number				1.5 MLS® NO.			
2. PARTIES							
2.1a. Landlord							
2.1b. Landlord							
2.2. Landlord's Address							
2.3. Landlord's Phone No.		Email		Fax No.			
2.4. Landlord's Residency (as defined in the <i>Income Tax Act</i> )      RESIDENT OF CANADA <input type="checkbox"/> NON-RESIDENT OF CANADA <input type="checkbox"/>							
2.5. Tenant							
2.6. Address							
2.7. Tenant's Phone No.		Email		Fax No.			
2.8. Occupation							
2.9. Tenant's Operating Name							
2.10. Covenantor						30	
2.11. Address						30	
2.12. Covenantor's Phone No.		Email		Fax No.		30	
3. PROPERTY							
3.1. Legal Description of Land						18	
3.1 PID						18	
3.2. Civic Address of Land/Buildings/Premises						18	
3.3. Premises			Schedule 3.3 Attached	Yes <input type="checkbox"/>	No <input type="checkbox"/>	18	
3.4. Area of Premises			Schedule 3.4 Attached	Yes <input type="checkbox"/>	No <input type="checkbox"/>	18	
4. TERM							
4.1. Term						19	
4.2. Commencement Date						19	
4.3. Expiry Date						19	
5. POSSESSION/OCCUPANCY							
5.1. Date						20	
6. RENT		YEAR(S)	YEAR(S)	YEAR(S)	YEAR(S)	YEAR(S)	
<b>Type of Rent (Choose one):</b>							
<input type="checkbox"/>	6.1 Gross Rent Per Month; <b>OR</b>	\$	\$	\$	\$	\$	21
<input type="checkbox"/>	6.2 Basic Rent Per Square Foot Per Annum	\$	\$	\$	\$	\$	21
	Basic Rent Per Month	\$	\$	\$	\$	\$	21

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Estimated Additional Rent for Year _____ is \$ _____ Per Square Foot Per Annum (\$ _____ per month)	21
6.3. Rent Schedule Attached Schedule 6.3 Attached Yes <input type="checkbox"/> No <input type="checkbox"/>	22
<b>7. PERMITTED USE</b>	
7.1. Permitted Use	23
<b>8. LANDLORD'S IMPROVEMENTS</b>	
8.1. Landlord's Improvements NONE <input type="checkbox"/>	Schedule 8.1 Attached Yes <input type="checkbox"/> No <input type="checkbox"/> 24
<b>9. TENANT'S IMPROVEMENTS</b>	
9.1. As Viewed On (Date)	
9.2. Tenant's Improvements NONE <input type="checkbox"/>	Schedule 9.2 Attached Yes <input type="checkbox"/> No <input type="checkbox"/> 25
<b>10. LEASE</b>	
10.1. Lease Attached	Schedule 10.1 Attached Yes <input type="checkbox"/> No <input type="checkbox"/> 26
10.2. Lease to be Provided by Landlord Within _____ Days of Acceptance	26
10.3. Lease to be Reviewed and Approved by Tenant By:	<input type="checkbox"/> Tenant's Condition Removal Date <input type="checkbox"/> Within _____ Days of Receipt from Landlord <input type="checkbox"/> Date _____
26	
<b>11. OPTION TO RENEW</b>	
11.1. Number of Renewal Term(s): _____ of _____ Years Each	27
11.2. Renewal Notice to be Provided by the Tenant in Writing _____ Months Before Expiry of Term	27
<b>12. TENANT'S CONDITIONS PRECEDENT</b>	
12.1. None <input type="checkbox"/>	Schedule 12.1 Attached Yes <input type="checkbox"/> No <input type="checkbox"/> 32
<b>13. LANDLORD'S CONDITIONS PRECEDENT</b>	
13.1. None <input type="checkbox"/>	Schedule 13.1 Attached Yes <input type="checkbox"/> No <input type="checkbox"/> 33
<b>14. DEPOSIT</b>	
14.1. Deposit to be Provided by the Following Date:	34
Date	
14.2. Amount of Deposit	34
14.3. Deposit to be Paid in Trust To	34
14.4. Deposit to be applied as follows	34
<b>15. AGENCY DISCLOSURE</b>	
15.1. Landlord's Designated Agent: Licensee & Brokerage	36
15.2. Tenant's Designated Agent: Licensee & Brokerage	36
15.3. Limited Dual Agency Designated Agent: Licensee & Brokerage	36
15.4. Date of Limited Dual Agency Agreement	36
<b>16. OFFER</b>	
16.1. Offer/Counter-Offer Open Until (Date & Time)	39
<b>17. SCHEDULES</b>	
3.3. Premises	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>
3.4. Area of Premises	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>
6.3. Rent Schedule	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>
8.1. Landlord's Improvement	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>
9.2. Tenant's Improvement	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>
10.1. Lease	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>
12.1. Tenant's Conditions Precedent	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>
13.1. Landlord's Conditions Precedent	Attached Yes <input type="checkbox"/> No <input type="checkbox"/>

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**Part 2 – TERMS**

- 18. DESCRIPTION OF PREMISES:** The Premises shall consist of approximately the square footage set out in section 3.4 and as shown outlined on the plan attached hereto as Schedule 3.3 if so indicated. All measurements shall be determined using the current Building Owners and Managers Association (BOMA) standard method of measurement and Basic and Additional Rent shall be adjusted accordingly.
- 19. TERM:** The term of the Lease shall be for the Term set out in section 4.1, commencing on the Commencement Date set out in section 4.2, and expiring on the Expiry Date set out in section 4.3.
- 20. DATE OF POSSESSION/OCCUPANCY:** The Tenant shall have possession of and may occupy the Premises on the Possession Date set out in section 5.1.
- 21. RENT:** The Tenant shall pay to the Landlord the Gross Rent or Basic Rent specified in section 6, payable monthly in advance without deduction in equal monthly installments on the first day of each and every month throughout the Term, in the amounts specified in section 6 commencing on the Commencement Date or in accordance with Schedule 6.3 if attached.
- 22. ADDITIONAL RENT:** The Lease shall be absolutely net or gross to the Landlord as specified in section 6, except for structural defects, as defined in the Lease, the expense of which shall be borne by the Landlord and, if net, in addition to Basic Rent plus GST, the Tenant shall pay for all other charges and expenses provided for in the Lease from the Commencement Date, including, without limitation, the Tenant's proportionate share (being the ratio of the rentable area of the Premises divided by the total rentable floor area of the Building) of property taxes, business taxes, water/sewer rates, building insurance, maintenance, management fees, heat, light and power, plus GST applicable to the foregoing (the "Additional Rent"). The Additional Rent shall be estimated and adjusted annually by the Landlord and paid in advance with the Basic Rent on the first day of each month and every month throughout the Term. The estimated Additional Rent in respect of the Premises is set out in section 6 and shall commence on the date specified in therein.
- 23. PERMITTED USE:** The Tenant shall use the Premises for the permitted use specified in section 7.1 only, and for no other purposes without the prior written approval of the Landlord as set out in the Lease, such approval not to be unreasonably withheld.
- 24. LANDLORD'S IMPROVEMENTS:** The Premises are to be provided by the Landlord on an "as is, where is" basis, except for those improvements outlined in Schedule 8.1 which shall be provided at the Landlord's expense. The Landlord shall be responsible for all permits for the Landlord's Improvements. All other leasehold improvements shall be completed at the Tenant's cost.
- 25. TENANT'S IMPROVEMENTS:** The Tenant agrees to accept the Premises on an "as is, where is" basis, as viewed by the Tenant on the Viewing Date specified in section 9.1 except for that work specifically set forth in Schedule 8.1 as the Landlord's Improvements. The Tenant shall carry out all work necessary to complete the Premises, as set out in the attached Schedule 9.2. The Tenant shall be required to prepare working drawings of the proposed Tenant's Improvements and obtain the written consent of the Landlord before commencing the Tenant's Improvements, such consent not to be unreasonably withheld. All Tenant's Improvements shall be done at the Tenant's sole cost and expense by qualified and licensed contractors and subcontractors who shall be subject to the reasonable approval of the Landlord unless otherwise agreed between the parties in Schedule 9.2. All such Tenant's Improvements shall be performed in a first class manner in accordance with the provisions of the Lease. The Tenant shall be responsible for all permits for the Tenant's Improvements.
- 26. THE LEASE:** The Lease for the Premises (the "Lease") shall be the Landlord's Standard Form of Lease for the Premises. A copy of the Lease is attached as Schedule 10.1 or, if not attached, a copy of the Lease shall be delivered to the Tenant within the time specified in section 10.2 following acceptance of this Offer. The Lease shall be modified to include the provisions of this Offer in either event. The Tenant shall have the time specified in section 10.3 after receipt of the Lease to review and approve of the Lease. Upon completion of the Tenant's review and approval, the Landlord shall prepare and deliver the Lease to the Tenant for execution. The Tenant shall execute the Lease and shall cause any Covenantor to execute the Lease, and shall deliver the Lease to the Landlord forthwith upon receipt of the same, and in any event prior to taking possession of and commencing business operations from the Premises. If the Tenant takes possession of the Premises without executing the Lease, the Tenant shall be deemed to have executed the Lease and shall be bound by all of the provisions thereof, provided however the Tenant shall remain obligated to execute and deliver the Lease to the Landlord forthwith upon demand, and such failure to execute and deliver the Lease to the Landlord shall constitute a default under the terms of the Lease. The Landlord shall not be obliged to deliver the Lease to the Tenant in a form acceptable for registration.
- 27. OPTION TO RENEW:** Provided the Tenant duly and regularly pays the rent, plus GST, and has not been in breach of any of the terms, conditions and covenants contained in the Lease, the Tenant shall have the option to renew the Lease, for a further term specified in section 11.1 (the "Renewal Term") on the same terms and conditions as the initial Term except for Basic Rent, any free rent allowance, fixturing period, any other tenant inducements or allowances and this option to renew. The rental for the Extended Term shall be based on the prevailing fair market rental for improved premises of similar size, quality, use and location, as agreed between the parties, and failing such agreement, as determined by arbitration pursuant to the *Arbitration Act*. The Tenant shall give written notice of the Tenant's intent to exercise such option to renew to the Landlord no later than the time specified in section 11.2 prior to the date of expiry of the initial Term, failing which, such option shall be null and void and incapable of exercise.
- 28. ASSIGNMENT:** The Tenant shall not assign all or any of its rights or obligations under this Offer, except with the prior written consent of the Landlord.
- 29. NOTICE:** Any notice given shall be in writing and prior to the Commencement Date, the addresses of the Landlord and Tenant for notices shall be the addresses set out in section 2 of this Offer, and any such notice shall be deemed to be received by the party to whom it was addressed, if delivered by hand, then upon delivery, or, on the third business day after the date on which it was mailed by prepaid registered mail except in the event of labour disruptions affecting postal service occurring prior to the deemed date of receipt thereof in which case notice shall only be delivered by hand.

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- 30. COVENANTOR:** If this Offer is accepted by the Landlord, the Covenantor specified in section 2.10 and in further consideration of the Landlord accepting the Offer, shall be bound to preserve and perform the terms of this Offer as accepted as if the Covenantor were the Tenant, and the Covenantor shall execute and deliver to the Landlord, as Covenantor named therein, the Lease concurrently with the execution and delivery thereof by the Tenant. The Covenantor covenants with the Landlord that the Covenantor is jointly and severally bound among themselves and the Tenant for the fulfillment of all obligations of the Tenant under this Offer and the Lease.
- 31. CONTAMINATED SITES:** Pursuant to the *Environmental Management Act*, and the Contaminated Sites Regulation, the Landlord shall be responsible for preexisting contamination on the Premises, if any, at the time the Tenant takes possession. The Tenant shall be responsible for any contamination of the Premises related to, or as a result of, the use and occupation of the Premises by the Tenant or any act or omission of the Tenant or any person for whom it is in law responsible, and shall indemnify the Landlord with respect thereto. The Tenant shall not contaminate the Premises or otherwise contravene the *Environmental Management Act* as amended or any other statutes, laws, regulations, orders, bylaws standards, guidelines, permits and other lawful requirements of any governmental authority having jurisdiction over the Premises.
- 32. TENANT'S CONDITIONS PRECEDENT:** This Offer and its acceptance is subject to the condition(s) precedent set out in Schedule 12.1, all of which are for the sole benefit of the Tenant (the "Tenant's Conditions"). The Tenant's Conditions shall be removed or waived by notice in writing from the Tenant to the Landlord on or before the times specified in Schedule 12.1, or the agreement resulting from the acceptance of this Offer shall become null and void and of no force or effect and the deposit shall be returned to the Tenant. The Landlord and Tenant specifically confirm that this Offer is executed under seal. It is agreed and understood, that the Landlord's acceptance is, subject to the Landlord's Conditions described in section 33, if any, irrevocable, including without limitation, during the period for the Tenant to either fulfill or waive the Tenant's Conditions.
- 33. LANDLORD'S CONDITIONS PRECEDENT:** This Offer and its acceptance is subject to the condition(s) precedent set out in Schedule 13.1 all of which are for the sole benefit of the Landlord (the "Landlord's Conditions"). The Landlord's Conditions shall be removed or waived by notice in writing from the Landlord to the Tenant on or before the times specified in Schedule 13.1 or the agreement resulting from the acceptance of this Offer shall become null and void and of no force or effect and the deposit shall be returned to the Tenant. The Landlord and Tenant specifically confirm that this Offer is executed under seal. It is agreed and understood, that this Offer is, subject to the Tenant's Conditions described in section 32, if any, irrevocable, including without limitation, during the period for the Landlord to either fulfill or waive the Landlord's Conditions.
- 34. DEPOSIT:** Within the time specified in section 14.1 of this Offer by the Landlord, the Tenant shall deliver a cheque in the amount specified in section 14.2, payable to the party specified in section 14.3, in trust, as a deposit to be applied in the manner specified in section 14.4. The balance of the deposit, if any, shall be held as a security deposit against payment and proper performance by the Tenant of the Tenant's obligations under the Lease, including payment of rent. If the Tenant defaults in carrying out any of its obligations hereunder, the Landlord, at its option, may retain the deposit as liquidated damages and not as a penalty without limiting the Landlord's other remedies at law or in equity. If this Offer becomes null and void, the deposit shall be refunded to the Tenant without deduction. Upon the date set for occupancy or upon execution of the Lease, whichever occurs first, the rent is then due and payable and may be deducted from the deposit with any remaining balance to be paid forthwith. This deposit shall not bear interest.
- The deposit is to be held in trust by the party specified, as a stakeholder pursuant to the provisions of the *Real Estate Services Act* and not on behalf of the principals to the transaction until the time specified below. The Landlord and Tenant hereby instruct the party holding the deposit, to release the deposit upon the earlier of:
- the date on which the Lease is submitted to the Land Title Office for registration;
  - the date the Tenant has the right to take possession of the Premises; and
  - the date the Tenant lawfully occupies the Premises.
- 35. INTERPRETATION:** Time shall be of the essence in all matters to be performed by each party to this Offer. This Offer, if accepted, shall constitute a binding agreement between the parties to enter into the Lease and to abide by the terms and conditions contained herein. If there are two or more Tenants hereunder, the liability of such Tenants shall be joint and several. There are no representations, warranties, guarantees, promises or agreements other than those set out herein, all of which shall survive the signing of the Lease. Whenever the context so requires, the neuter gender shall include masculine and feminine, and the singular number shall include the plural and vice versa. This Offer shall be governed by the laws of the Province of British Columbia. This Offer shall enure to the benefit of, and be binding upon, the successors and permitted assigns of the Parties. If there is a contradiction between the provisions of this Offer and the terms and conditions of the Lease, the Offer shall prevail.
- 36. AGENCY DISCLOSURE:** The Landlord and Tenant acknowledge and confirm as follows (initial appropriate box(es) and complete details as applicable):

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- A. The Landlord acknowledges having received, read and understood Real Estate Council of British Columbia (RECBC) form entitled "*Disclosure of Representation in Trading Services*" and hereby confirms that the Landlord has an agency relationship with the Designated Agent(s)/Licensee(s) specified in Section 15.1 who is/are licensed in relation to the brokerage specified in Section 15.1.

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- B. The Tenant acknowledges having received, read and understood RECBC form entitled "*Disclosure of Representation in Trading Services*" and hereby confirms that the Tenant has an agency relationship with the Designated Agent(s)/Licensee(s) specified in Section 15.2 who is/are licensed in relation to the brokerage specified in Section 15.2.

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- C. The Landlord and the Tenant each acknowledge having received, read and understood RECBC form entitled "*Disclosure of Risks Associated with Dual Agency*" and hereby confirm that they each consent to a dual agency relationship with the Designated Agent(s)/Licensee(s) specified in Section 15.3 who is/are licensed in relation to the brokerage specified in Section 15.3, having signed a dual agency agreement with such Designated Agent(s)/Licensee(s) dated the date set out in Section 15.4.

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D. If only (A) has been completed, the Tenant acknowledges having received, read and understood RECBC form "Disclosure of Risks to Unrepresented Parties" from the Landlord's Designated Agent(s)/Licensee(s) listed in (A) and hereby confirms that the Tenant has no agency relationship.

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E. If only (B) has been completed, the Landlord acknowledges having received, read and understood RECBC form "Disclosure of Risks to Unrepresented Parties" from the Tenant's Designated Agent(s)/Licensee(s) listed in (B) and hereby confirms that the Landlord has no agency relationship.

37. COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION: The Landlord and the Tenant hereby consent to the collection, use and disclosure by the Brokerages and Licensees described in section 15, the real estate boards of which those Brokerages and Licensees are members and, if the Premises are listed on a Multiple Listing Service®, the real estate board that operates that Multiple Listing Service®, of personal information about the Landlord and the Tenant:

- A. for all purposes consistent with the transaction contemplated herein;
B. if the property is listed on a Multiple Listing Service®, for the purpose of the compilation, retention and publication by the real estate board that operates the Multiple Listing Service® and other real estate boards of any statistics including historical Multiple Listing Service® data for use by persons authorized to use the Multiple Listing Service® of that real estate board and other real estate boards;
C. for enforcing codes of professional conduct and ethics for members of real estate boards; and
D. for the purposes (and to the recipients) described in the brochure published by the British Columbia Real Estate Association entitled Privacy Notice and Consent.

The personal information provided by the Landlord and the Tenant may be stored on databases outside Canada, in which case it would be subject to the laws of the jurisdiction in which it is located.

38. INFORMATION SUMMARY: The Information Summary being Part 1 to this Offer, and the Schedules attached to this Offer, form an integral part of this Offer. The Landlord and Tenant acknowledge that they have read all of Part 1 and Part 2 and the Schedules to this Offer.

39. OFFER: This offer, or counter-offer, will be open for acceptance until the time and date specified in section 16.1 (unless withdrawn in writing with notification to the other party of such revocation prior to notification of its acceptance), and upon acceptance of the offer, or counter-offer, by accepting in writing and notifying the other party of such acceptance, there will be a binding Offer to Lease on the terms and conditions set forth.

X
WITNESS



TENANT

X
WITNESS



TENANT

X
WITNESS



COVENANTOR

40. ACCEPTANCE: The Landlord (a) hereby accepts the above offer and agrees to complete the lease upon the terms and conditions set out above, (b) agrees to pay a commission as per the Authority to Lease. Neither the preparation by the Landlord of this or any form of offer nor any negotiations entered into by the Landlord in connection with its submission shall constitute or imply any commitment unless the above offer has been accepted in writing by the Landlord.

Landlord's acceptance is dated \_\_\_\_\_, yr. \_\_\_\_\_.

X
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