



# "LEGALITIES OF CONTRACTS"



3 Hours of Contracts Continuing Education  
Internet Delivery

*Approved by the Division on Behalf of the Commission*

## **Participant Outline**

**JOSEPH R. FITZPATRICK**

**MEET JOE:**

Joe Fitzpatrick graduated from The University of Nevada, Las Vegas in 1985 and began his career with Coldwell Banker in Margate, Florida, listing and selling real estate. Joe went on to manage the North Miami office and opened Century 21 Fitzpatrick Realty with family. The firm became the top-ranked Century 21 company in Broward County, Florida.



In 1991, Joe returned to Las Vegas where he began teaching and authoring real estate courses. He also continued on as Vice-President of Century 21 MoneyWorld, which was consistently ranked among the top 10 Century 21 firms in the world where he led the education division among other duties.

Joe has authored and published over 30 real estate licensing textbooks and courses available on Amazon.com and which have been approved for utilization in several states. He made a few stops along the way including being the Education Director at LVR. You may recognize his voice from other online sites. Living through sellers' markets and buyer's markets, Joe has experienced interest rate fluctuations of 17.5% and 2%. He knows what it takes to stay successful in the business no matter what the market conditions may be.

Joe opened Fitzpatrick Real Estate School in both Nevada and Arizona, and continues to practice real estate in addition to his other responsibilities. We trust you will find Mr. Fitzpatrick's courses to be informative, interesting, and entertaining too.

## **HOW IT WORKS**

### **The student participant must:**

- view all hour(s) of the video presentation (links are located on the website under the Internet course title).
- direct attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction and distracting.
- complete the “Online Video Worksheet” included in the course outline as you view the presentation, filling in the “Checkpoints” as they are displayed throughout the videos.
- take the quiz found in the outline.
- complete the course evaluation upon the conclusion of the course.
- submit the (1) Attestation, (2) Quiz answers, (3) Online View Worksheet, and the (4) Course Evaluation using the links provided directly above the videos.
- obtain score of 80% or more on the quiz and a score of 80% must be obtained on the Online Video Worksheet. A student, who tries to skip through the course and not devote the required hours, will not pass. The answers for the worksheet are sprinkled throughout the presentation.
- With a passing score on the quiz and worksheet, along with the submitted evaluation, a certificate will be emailed to you promptly.

**ONLINE VIDEO WORKSHEET**

The Arizona Department of Real Estate holds CE course sponsors, such as Fitzpatrick Real Estate School, accountable for the following regarding online/distance learning courses:

- verify that students watch the complete presentation and spend the appropriate number of hours required to earn a certificate;
- verify that students did not start the presentation and leave the presentation to run on its own without the student viewing it;
- evaluate the student mastery of the material;
- provide the student with support services and interaction;
- have a method to assess student performance during instruction.

To accomplish these goals, we have developed this “Online Video Worksheet” to accompany the videos we use to teach CE courses online. Throughout the videos, have embedded “checkpoints” that will prompt you to fill in the answers below.

In order to receive credit for the online course, you must answer the checkpoints correctly with a score of 80% and submit using the Online Video Worksheet link located above the three videos.

CHECKPOINT #1: \_\_\_\_\_

CHECKPOINT #2: \_\_\_\_\_

CHECKPOINT #3: \_\_\_\_\_

CHECKPOINT #4: \_\_\_\_\_

CHECKPOINT #5: \_\_\_\_\_

CHECKPOINT #6: \_\_\_\_\_

CHECKPOINT #7: \_\_\_\_\_

CHECKPOINT #8: \_\_\_\_\_

CHECKPOINT #9: \_\_\_\_\_

CHECKPOINT #10: \_\_\_\_\_

Student Name: \_\_\_\_\_ Date: \_\_\_\_\_

Course Title: Legalities of Contracts

**Course Overview:**

- We will cover the legal aspects of contracts and the impact of contracting upon the parties. Topics include:
  - Why is it important for a licensee to understand the legalities of contracts?
  - types of contracts
  - essential elements of contracts
  - enforceability
  - legal terms
  - the impact of breach and performance

**Why is it important for licensee to understand the legalities of contracts?****I. Technically, what is a Contract?**

- a written or spoken agreement, where the parties agree to do, or not to do, something of a legal nature, for the exchange of services and consideration.
- It begins with an offer.
  - An offer becomes a contract when an offer has been accepted by the offeree and communication of that acceptance is delivered to the offeror.

**Types of Contracts**

- Expressed
  - contract uses “words”
  - is either written or oral
  - demonstrates the intentions of the parties
- Implied
  - assumed to exist based upon the actions of the parties
  - parties are behaving as if a contracting has occurred
  - no words were spoken or written
  - “ostensible contract”
  - parties carry out their duties and receive their rights provided they are willing
- Bilateral
  - “bi” means “two”
  - two – or both – parties are *bound to perform*
  - most contracts are bilateral
  - both parties are making promises and receiving rights
  - one party’s duty is the other party’s right
- Unilateral
  - binding only upon one party *should* the other party *choose* to perform
  - the party with the option does not ever have to perform
  - option contracts and lease option agreements
- Executed
  - fully and completely performed
  - can also mean that the contract has been fully signed by all parties
- Executory
  - still has rights and duties to be performed

## II. Essential Elements of a Contract

- **Competent Parties.** The parties must be competent to enter into an agreement, meaning they are living, of lawful age, of sound mind, and mentally sound.
- **Offer and Acceptance.** There must have been an offer which was eventually accepted (perhaps after counteroffers). There was a “meeting of the minds,” mutually agreeable to all parties (also called mutual assent).
- **Legality of Object.** The purpose of the transaction must be legal in nature.
- **Informed Parties.** The parties were aware of what they were doing at the time of contracting, were fully informed, and willingly agreed to the terms. There can be no fraud, misrepresentation, or duress that would have misled a party into entering into the agreement.
- **Consideration.** Consideration in a contract usually comes in the form of money, but may be anything of value. Some older documents refer to consideration as “for continued love and affection” or “for good and valuable consideration.”
- The acronym “COLIC” is often used to remember these five essential elements of *any* contract
- **STATUTE OF FRAUDS:** Real Estate Contracts and Personal Property Valued Over \$500 Require the Contract to be in Writing to be Enforceable.

## III. Contract Performance

- **Valid**
  - contains all five essential elements (COLIC)
  - legal and binding upon the parties
  - parties must perform their duties or are in **breach**
  - If a contract is missing any of the essential elements, it is either void or voidable.
- **Void**
  - missing offer and acceptance, legality of object, or consideration; “visible”
  - could look at the “four corners of a contract” and see if these three elements exist in the agreement
  - if any of the three is missing, the contract is void
  - no binding effect upon the parties; no legal contract
  - as if there were never a contract at all

- ✓ **Competent Parties**
- ✓ **Offer and Acceptance**
- ✓ **Legality of Object**
- ✓ **Informed Parties**
- ✓ **Consideration**

-  **Competent Parties**
-  **Offer and Acceptance**
-  **Legality of Object**
-  **Informed Parties**
-  **Consideration**

- **Voidable**
  - missing competent parties or informed parties
  - “not visible;” refer to the parties
  - contract can be declared void and have no binding effect.
  - contracts are voidable by the person with the disadvantage



**Competent  
Parties  
Offer and  
Acceptance  
Legality of  
Object  
Informed  
Parties  
Consideration**

- **Unenforceable**
  - *Some* contracts are required to be in writing *in order to be enforced in a court of law.*
  - if the parties get into a dispute and wish to take the matter before the court, the contract has to be in writing and signed
  - Statute of Frauds: contracts for the sale of real property, or personal property valued at \$500 or more, must be in writing in order to be enforceable in court.

## MATCHING

___ VOID	A. Associated with Statute of Frauds
___ VALID	B. In writing or oral
___ VOIDABLE	C. Exchange of Duties and Rights
___ UNENFORCEABLE	D. Contains All 5 Essential Elements
___ EXPRESSED	E. Missing visible essential element
___ CONSIDERATION	F. Missing invisible essential element
___ CONTRACT	

***Note there is one without a match!***

## ARE YOU GETTING THIS?

True or False?

All contracts for the sale of real estate must be in writing.

16-year-old Maria enters into an enrollment agreement with a ballet school.

VALID VOID VOIDABLE UNENFORCEABLE

Bob hires a contractor to build a single-family home on a lot zoned for agricultural use.

VALID VOID VOIDABLE UNENFORCEABLE

Two cowboys agree on a handshake for one to sell the other his old ranch for \$200,000.  
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VALID VOID VOIDABLE UNENFORCEABLE

Larry has been drinking all day and has a blood alcohol level of .029. He stops on his way home and buys a new pickup truck from the local dealership.

VALID VOID VOIDABLE UNENFORCEABLE

#### **IV. Technical Terms**

- **Time is of the essence**

- If a specific time frame/deadline has been established in the sales contract, whereby one of the parties is to perform something by that deadline, it *must* be completed by the deadline or the other party may declare a breach.
- At that point, the contract becomes voidable.
- Example: buyer is to make loan application within 5 days of acceptance:
  - if not done on time, seller can rescind
  - or seller can proceed with the contract in the hopes the buyer performs as required

- **Breach**

- failure or refusal to perform duties as required by the contract

- **Specific Performance**

- a legal action will require the buyer or seller to perform all duties as specified in the contract

- **Revocation**

- option for seller, due to the buyer's breach, allows the seller to revoke (cancel) the contract and retain the earnest money deposit

- **Rescission**

- one of the parties decides to call off the contract
- return the earnest money deposit to the buyer
- rescission is a complete reversal of the contract
- putting everyone back to where they were before contracting which includes returning the earnest money deposit to the buyer
- house might go back on the market

- **Statute of Limitations**

- a legal limit to the time frame under which the injured party can legally sue the breaching party
- limit varies from state to state and depends on the nature of the suit

- **Parol Evidence Rule**

- oral words or representations will not be binding upon either party in a contract
- oral statements will not supersede anything in writing
- *parol* is French for *oral*
- if the parties want a spoken representation to be binding, put it in writing

- **Contingency**

- a condition that must be satisfied in order for the contract to remain enforceable
- generally, if a contingency is not satisfied, the parties agree to a rescission

- **Liquidated damages**

- contract pre-addresses the damages that may be received in the event of default
- Example: earnest money deposit
- “EMD” will be sacrificed in the event of buyer default

- **Punitive damages**

- might be awarded by a judge to “punish” the breaching party and compensate the injured party



- awarded to compensate (reimburse) the injured party for any actual losses suffered

## V. LEGALITIES OF KEY CLAUSES IN AAR PURCHASE AGREEMENT

### BUYER ATTACHMENT

Document updated:  
August 2024



*This attachment should be given to the Buyer prior to the submission of any offer and is not part of the Residential Resale Real Estate Purchase Contract's terms.*



## ATTENTION BUYER!

*You are entering into a legally binding agreement.*

- ☐ 1. **Read the entire contract before you sign it.**
- ☐ 2. **Review the Residential Seller's Property Disclosure Statement (See Section 4a).**
  - This information comes directly from the Seller.
  - Investigate any blank spaces, unclear answers or any other information that is important to you.
- ☐ 3. **Review the Inspection Paragraph (see Section 6a).**

If important to you, hire a qualified:

  - General home inspector
  - Heating/cooling inspector
  - Mold inspector
  - Pest inspector
  - Pool inspector
  - Roof inspector

Verify square footage (see Section 6b)  
Verify the property is on sewer or septic (see Section 6f)
- ☐ 4. **Confirm your ability to obtain insurance and insurability of the property during the inspection period with your insurance agent (see Sections 6a and 6e).**
- ☐ 5. **Apply for your home loan now, if you have not done so already, and provide your lender with all requested information (see Section 2f).**

It is your responsibility to make sure that you and your lender follow the timeline requirements in Section 2, and that you and your lender deliver the necessary funds to escrow in sufficient time to allow escrow to close on the agreed upon date. Otherwise, the Seller may cancel the contract and you may be liable for damages.
- ☐ 6. **Read the title commitment within five (5) days of receipt (see Section 3c).**
- ☐ 7. **Read the CC&R's and all other governing documents within five (5) days of receipt (see Section 3c), especially if the home is in a homeowner's association.**
- ☐ 8. **Conduct a thorough pre-closing walkthrough (see Section 6l). If the property is unacceptable, speak up. After the closing may be too late.**

You can obtain information through the Buyer's Advisory at [www.aaronline.com/manage-risk/buyer-advisory-3/](http://www.aaronline.com/manage-risk/buyer-advisory-3/).

**Remember, you are urged to consult with an attorney, inspectors, and experts of your choice in any area of interest or concern in the transaction.** Be cautious about verbal representations, advertising claims, and information contained in a listing. **Verify anything important to you.**

#### WARNING: \*WIRE TRANSFER FRAUD\*

Beware of wiring instructions sent via email. Cyber criminals may hack email accounts and send emails with fake wiring instructions. ***Always independently confirm wiring instructions prior to wiring any money.*** Do not email or transmit documents that show bank account numbers or personal identification information.

☒ **Buyer's Check List**

Buyer Attachment • Updated: August 2024  
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# RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document updated:  
August 2024



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



## 1. PROPERTY

- 1a. 1. **BUYER:** \_\_\_\_\_  
BUYER'S NAME(S)
2. **SELLER:** \_\_\_\_\_ or ☐ as identified in section 9c.  
SELLER'S NAME(S)
3. Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereon  
4. or incidental thereto, plus the personal property described herein (collectively the "Premises").
- 1b. 5. Premises Address: \_\_\_\_\_ Assessor's #: \_\_\_\_\_  
6. City: \_\_\_\_\_ County: \_\_\_\_\_ AZ, Zip Code: \_\_\_\_\_  
7. Legal Description: \_\_\_\_\_  
8. \_\_\_\_\_  
9. \_\_\_\_\_
- 1c. 10. \$ \_\_\_\_\_ Full Purchase Price, paid as outlined below  
11. \$ \_\_\_\_\_ Earnest Money  
12. \$ \_\_\_\_\_  
13. \$ \_\_\_\_\_  
14. \_\_\_\_\_  
15. \_\_\_\_\_  
16. \_\_\_\_\_
17. Earnest Money is in the form of: ☐ Personal Check ☐ Wire Transfer ☐ Other  
18. Upon acceptance of this offer, the Earnest Money, if any, will be deposited with: ☐ Escrow Company ☐ Broker's Trust Account.  
19. **IF THIS IS AN ALL CASH SALE:** A Letter of Credit or a source of funds from a financial institution documenting the availability of  
20. funds to close escrow is attached hereto.
- 1d. 21. **Close of Escrow:** Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office.  
22. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Company all closing  
23. documents, and perform all other acts necessary in sufficient time to allow COE to occur on  
24. \_\_\_\_\_, 20\_\_\_\_ ("COE Date"). If Escrow Company or recorder's office is closed on the COE Date,  
MONTH DAY YEAR  
25. COE shall occur on the next day that both are open for business.  
26. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down  
27. payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds to  
28. Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on the COE Date.  
29. Buyer acknowledges that failure to pay the required closing funds by the scheduled COE, if not cured after a cure notice is delivered  
30. pursuant to Section 7a, shall be construed as a material breach of this Contract and the Earnest Money shall be subject to forfeiture.  
31. All funds are to be in U.S. currency.
- 1e. 32. **Possession:** Seller shall deliver possession, occupancy, existing keys and/or means to operate all locks, mailbox, security  
33. system/alarms, and all common area facilities to Buyer at COE or ☐  
34. Broker(s) recommend that the parties seek independent counsel from insurance, legal, tax, and accounting professionals regarding  
35. the risks of pre-possession or post-possession of the Premises.
- 1f. 36. **Addenda Incorporated:** ☐ Additional Clause ☐ Buyer Contingency ☐ Domestic Water Well ☐ H.O.A.  
37. ☐ Lead-Based Paint Disclosure ☐ Loan Assumption ☐ On-site Wastewater Treatment Facility ☐ Seller Compensation  
38. ☐ Seller Financing ☐ Short Sale ☐ Solar Addendum ☐ Other: \_\_\_\_\_

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**Residential Resale Real Estate Purchase Contract >>**

- 1g. **39. Fixtures and Personal Property:** For purposes of this Contract, fixtures shall mean property attached/affixed to the Premises.
40. Seller agrees that all existing: fixtures on the Premises, personal property specified herein, and means to operate fixtures and
41. property (i.e., remote controls) shall convey in this sale. Including the following:
- |   |   |   |
|---|---|---|
| 42. • built-in appliances, ceiling fans and remotes | • media antennas/satellite dishes (affixed)   | • storage sheds   |
| 43. • central vacuum, hose, and attachments         | • outdoor fountains and lighting  | • storm windows and doors                               |
| 44. • draperies and other window coverings          | • outdoor landscaping (i.e., shrubbery, trees and unpotted plants)                                      | • stoves: gas-log, pellet, wood-burning                 |
| 45. • fireplace equipment (affixed)                 | • shutters and awnings  | • timers (affixed)                                      |
| 46. • floor coverings (affixed)                     | • smart home devices, access to which shall be transferred (i.e., video doorbell, automated thermostat) | • towel, curtain and drapery rods                       |
| 47. • free-standing range/oven                      | • speakers (flush-mounted)  | • wall mounted TV brackets and hardware (excluding TVs) |
| 48. • garage door openers and remotes               |   | • water-misting systems                                 |
| 49. • light fixtures                                |   | • window and door screens, sun shades                   |
| 50. • mailbox                                       |   |   |
51. If owned by Seller, the following items also are included in this sale:
- |  |  |  |
|--|--|--|
| 52. • affixed alternate power systems serving the Premises (i.e., solar) | • in-ground pool and spa/hot tub equipment and covers (including any mechanical or other cleaning systems) | • security and/or fire systems and/or alarms |
| 53.  |  | • water purification systems                 |
| 54.  |  | • water softeners                            |
55. **Additional existing personal property included in this sale (if checked):**
56. ☐ refrigerator (description): \_\_\_\_\_
57. ☐ washer (description): \_\_\_\_\_
58. ☐ dryer (description): \_\_\_\_\_
59. ☐ above-ground spa/hot tub including equipment, covers, and any mechanical or other cleaning systems (description): \_\_\_\_\_
60. \_\_\_\_\_
61. ☐ other personal property not otherwise addressed (description): \_\_\_\_\_
62. ☐ other personal property not otherwise addressed (description): \_\_\_\_\_
63. **Additional existing personal property included shall not be considered part of the Premises and shall be transferred with no monetary value, and free and clear of all liens or encumbrances.**
65. Leased items shall **NOT** be included in this sale. Seller shall deliver notice of all leased items within three (3) days after Contract
66. acceptance. Buyer shall provide notice of any leased items disapproved within the Inspection Period or five (5) days after receipt of the
67. notice, whichever is later.
68. **IF THIS IS AN ALL CASH SALE:** Section 2 does not apply - go to Section 3.

**2. FINANCING**

- 2a. **69. Pre-Qualification:** An AAR Pre-Qualification Form **is** attached hereto and incorporated herein by reference.
- 2b. **70. Loan Contingency:** Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval without Prior to Document ("PTD") conditions no later than three (3) days prior to the COE Date for the loan described in the AAR Loan Status
72. Update ("LSU") form or the AAR Pre-Qualification Form, whichever is delivered later. **No later than three (3) days prior to the**
73. **COE Date, Buyer shall either: (i) sign all loan documents; or (ii) deliver to Seller or Escrow Company notice of loan approval without PTD conditions AND date(s) of receipt of Closing Disclosure(s) from Lender; or (iii) deliver to Seller or Escrow Company notice of inability to obtain loan approval without PTD conditions.**
74. **75. Escrow Company notice of inability to obtain loan approval without PTD conditions.**
- 2c. **76. Unfulfilled Loan Contingency:** This Contract shall be cancelled and Buyer shall be entitled to a return of the Earnest Money if
77. after diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions and delivers notice of inability
78. to obtain loan approval no later than three (3) days prior to the COE Date. If Buyer fails to deliver such notice, Seller may issue a
79. cure notice to Buyer as required by Section 7a and, in the event of Buyer's breach, Seller shall be entitled to the Earnest Money
80. pursuant to Section 7b. If, prior to expiration of any Cure Period, Buyer delivers notice of inability to obtain loan approval, Buyer
81. shall be entitled to a return of the Earnest Money. Buyer acknowledges that prepaid items paid separately from the Earnest Money
82. are not refundable.
- 2d. **83. Interest Rate / Necessary Funds:** Buyer agrees that (i) the inability to obtain loan approval due to the failure to lock the interest
84. rate and "points" by separate written agreement with the lender; or (ii) the failure to have the down payment or other funds
85. due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not an unfulfilled loan
86. contingency.
- 2e. **87. Loan Status Update:** Buyer shall deliver to Seller the LSU, with at a minimum lines 1-40 completed, describing the current status
88. of the Buyer's proposed loan within ten (10) days after Contract acceptance and instruct lender to provide an updated LSU to
89. Broker(s) and Seller upon request.

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- 2f. 90. **Loan Application:** Unless previously completed, within three (3) days after Contract acceptance Buyer shall (i) provide lender with Buyer's name, income, social security number, Premises address, estimate of value of the Premises, and mortgage loan amount sought; and (ii) grant lender permission to access Buyer's Trimerged Residential Credit Report.
- 2g. 93. **Loan Processing During Escrow:** Within ten (10) days after receipt of the **Loan Estimate** Buyer shall (i) provide lender with notice of intent to proceed with the loan transaction in a manner satisfactory to lender; and (ii) provide to lender all requested signed disclosures and the documentation listed in the LSU at lines 32-35. Buyer agrees to diligently work to obtain the loan and will promptly provide the lender with all additional documentation requested.
- 2h. 97. **Type of Financing:** ☐ Conventional ☐ FHA ☐ VA ☐ USDA ☐ Assumption ☐ Seller Carryback ☐ \_\_\_\_\_  
98. (If financing is to be other than new financing, see attached addendum.)
- 2i. 99. **Loan Costs:** All costs of obtaining the loan shall be paid by Buyer, unless otherwise provided for herein.
- 2j. 100. **Seller Concessions (if any):** In addition to the other costs Seller has agreed to pay herein, Seller will credit Buyer \_\_\_\_\_% of the Purchase Price OR \$ \_\_\_\_\_ (Seller Concessions). The Seller Concessions may be used for any Buyer fee, cost, charge, or expenditure to the extent allowed by Buyer's lender.
- 2k. 103. **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in the Pre-Qualification Form attached hereto or LSU provided within ten (10) days after Contract acceptance and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan approval without PTD conditions, increase Seller's closing costs, or delay COE.
- 2l. 107. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises acceptable to lender for at least the purchase price. If the Premises fail to appraise for the purchase price in any appraisal required by lender, Buyer has five (5) days after notice of the appraised value to cancel this Contract and receive a return of the Earnest Money or the appraisal contingency shall be waived, unless otherwise prohibited by federal law.
- 2m. 111. **Appraisal Cost(s):** Initial appraisal fee shall be paid by ☐ Buyer ☐ Seller ☒ Other \_\_\_\_\_  
112. at the time payment is required by lender and is non-refundable. If Seller is paying the initial appraisal fee, the fee ☐ will ☐ will not be applied against Seller's Concessions at COE, if applicable. If Buyer's lender requires an updated appraisal prior to COE, it will be performed at Buyer's expense. Any appraiser/lender required inspection cost(s) shall be paid for by Buyer.

**3. TITLE AND ESCROW**

- 3a. 115. **Escrow:** This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out the terms of this Contract shall be:  
117. \_\_\_\_\_  
ESCROW/TITLE COMPANY  
118. \_\_\_\_\_  
ADDRESS CITY STATE ZIP  
119. \_\_\_\_\_  
EMAIL PHONE FAX
- 3b. 120. **Title and Vesting:** Buyer will take title as determined before COE. If Buyer is married and intends to take title as his/her sole and separate property, a disclaimer deed may be required. Taking title may have significant legal, estate planning and tax consequences. Buyer should obtain independent legal and tax advice.
- 3c. 123. **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly, addressed pursuant to 8s and 9c or as otherwise provided, a Commitment for Title Insurance together with complete and legible copies of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), including but not limited to Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and easements. Buyer shall have five (5) days after receipt of the Title Commitment and after receipt of notice of any subsequent exceptions to provide notice to Seller of any items disapproved. Seller shall convey title by warranty deed, subject to existing taxes, assessments, covenants, conditions, restrictions, rights of way, easements and all other matters of record. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's Title Insurance Policy or, if not available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire extended coverage at Buyer's own additional expense. If applicable, Buyer shall pay the cost of obtaining the ALTA Lender Title Insurance Policy.

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SELLER SELLER _____ Initials	Initials> BUYER BUYER _____



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- 3d. 133. Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address of Buyer to any homeowner's association(s) in which the Premises are located. (ii) If Escrow Company is also acting as the title agency but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to Buyer and Seller, upon deposit of funds, a closing protection letter from the title insurer indemnifying Buyer and Seller for any losses due to fraudulent acts or breach of escrow instructions by Escrow Company. (iii) All documents necessary to close this transaction shall be executed promptly by Seller and Buyer in the standard form used by Escrow Company. Escrow Company shall modify such documents to the extent necessary to be consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally between Seller and Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications directed to Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and information regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.
- 3e. 143. Tax Prorations:** Real property taxes payable by Seller shall be prorated to COE based upon the latest tax information available.
- 3f. 144. Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with Escrow Company, Buyer and Seller authorize Escrow Company to release the Earnest Money pursuant to the terms and conditions of this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or relating in any way to the release of the Earnest Money.
- 3g. 149. Prorations of Assessments and Fees:** All assessments and fees that are not a lien as of COE, including homeowner's association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances, and service contracts, shall be prorated as of COE or ☐ Other: \_\_\_\_\_
- 3h. 152. Assessment Liens:** The amount of any assessment lien or bond including those charged by a special taxing district, such as a Community Facilities District, shall be prorated as of COE.

**4. DISCLOSURE**

- 4a. 154. Seller's Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR Residential SPDS form to Buyer within three (3) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection Period or five (5) days after receipt of the SPDS, whichever is later.
- 4b. 157. Insurance Claims History:** Seller shall deliver to Buyer a written five (5) year insurance claims history regarding the Premises (or a claims history for the length of time Seller has owned the Premises if less than five (5) years) from Seller's insurance company or an insurance support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days after Contract acceptance. Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the claims history, whichever is later.
- 4c. 162. Foreign Sellers:** The Foreign Investment in Real Property Tax Act ("FIRPTA") is applicable if Seller is a non-resident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate ("Foreign Person"). Seller agrees to complete, sign, and deliver to Escrow Company a certificate indicating whether Seller is a Foreign Person. FIRPTA requires that a foreign seller may have federal income taxes up to 15% of the purchase price withheld, unless an exception applies. Seller is responsible for obtaining independent legal and tax advice.
- 4d. 167. Lead-Based Paint Disclosure:** If the Premises were built prior to 1978, Seller shall: (i) notify Buyer of any known lead-based paint ("LBP") or LBP hazards in the Premises; (ii) provide Buyer with any LBP risk assessments or inspections of the Premises in Seller's possession; (iii) provide Buyer with the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards to Seller prior to COE.
173. ☐ LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk assessments or inspections during Inspection Period.
175. ☐ Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days or \_\_\_\_\_ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises for the presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five (5) days after expiration of the Assessment Period cancel this Contract.
179. Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in residential properties built before 1978 and to follow specific work practices to prevent lead contamination.
181. If Premises were constructed prior to 1978, **(BUYER'S INITIALS REQUIRED)** \_\_\_\_\_ BUYER \_\_\_\_\_
182. If Premises were constructed in 1978 or later, **(BUYER'S INITIALS REQUIRED)** \_\_\_\_\_ BUYER \_\_\_\_\_

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- 4e. 183. **Affidavit of Disclosure:** If the Premises are located in an unincorporated area of the county, and five (5) or fewer parcels of  
184. property other than subdivided property are being transferred, Seller shall deliver a completed Affidavit of Disclosure in the form  
185. required by law to Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items  
186. disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.
- 4f. 187. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein,  
188. in the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by this  
189. Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed five (5) days after  
190. delivery of such notice to provide notice of disapproval to Seller.

**5. WARRANTIES**

- 5a. 191. **Condition of Premises: BUYER AND SELLER AGREE THE PREMISES ARE BEING SOLD IN ITS PRESENT PHYSICAL**  
192. **CONDITION AS OF THE DATE OF CONTRACT ACCEPTANCE.** Seller makes no warranty to Buyer, either express or implied,  
193. as to the condition, zoning, or fitness for any particular use or purpose of the Premises. However, Seller shall maintain and repair  
194. the Premises so that at the earlier of possession or COE: (i) the Premises, including all personal property included in the sale, will  
195. be in substantially the same condition as on the date of Contract acceptance; and (ii) all personal property not included in the sale  
196. and debris will be removed from the Premises. Buyer is advised to conduct independent inspections and investigations regarding  
197. the Premises within the Inspection Period as specified in Section 6a. Buyer and Seller acknowledge and understand they may,  
198. but are not obligated to, engage in negotiations or address repairs/improvements to the Premises. Any/all agreed upon repairs/  
199. improvements will be addressed pursuant to Section 6j.
- 5b. 200. **Warranties that Survive Closing:** Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects and  
201. any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the  
202. consideration to be paid by Buyer. Prior to COE, Seller warrants that payment in full will have been made for all labor, professional  
203. services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding COE in connection with the  
204. construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the information regarding  
205. connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is correct to the best of  
206. Seller's knowledge.
- 5c. 207. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect  
208. Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE,  
209. Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises.  
210. **Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows:**  
211. \_\_\_\_\_  
212. \_\_\_\_\_

**6. DUE DILIGENCE**

- 6a. 213. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or \_\_\_\_\_ days after Contract acceptance. During the  
214. Inspection Period Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other types of inspections  
215. and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies,  
216. lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and  
217. the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards,  
218. violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of  
219. sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is  
220. a material matter to Buyer, it must be investigated by Buyer during the Inspection Period. Buyer shall keep the Premises free and  
221. clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands, damages, and costs, and shall repair all  
222. damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection  
223. reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate Buyer  
224. Advisory to assist in Buyer's due diligence inspections and investigations.
- 6b. 225. **Square Footage: BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE**  
226. **REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL**  
227. **MATTER TO BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.**
- 6c. 228. **Wood-Destroying Organism or Insect Inspection: IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OR INSECTS**  
229. **(SUCH AS TERMITES) ARE A MATERIAL MATTER TO BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE**  
230. **INSPECTION PERIOD.** Buyer shall order and pay for all wood-destroying organism or insect inspections performed during the  
231. Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be  
232. performed at Buyer's expense.
- 6d. 233. **Flood Hazard: FLOOD HAZARD DESIGNATIONS OR THE COST OF FLOOD HAZARD INSURANCE SHALL BE**  
234. **DETERMINED BY BUYER DURING THE INSPECTION PERIOD.** If the Premises are situated in an area identified as having  
235. any special flood hazards by any governmental entity, **THE LENDER MAY REQUIRE THE PURCHASE OF FLOOD HAZARD**  
236. **INSURANCE.** Special flood hazards may also affect the ability to encumber or improve the Premises.

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- 6e. 237. **Insurance: IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO BUYER, BUYER SHALL APPLY FOR AND**  
 238. **OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE**  
 239. **PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD.** Buyer understands that any  
 240. homeowner's, fire, casualty, flood or other insurance desired by Buyer or required by lender should be in place at COE.
- 6f. 241. **Sewer or On-site Wastewater Treatment System:** The Premises are connected to a:  
 242. ☐ sewer system ☐ conventional septic system ☐ alternative system
243. **IF A SEWER CONNECTION IS A MATERIAL MATTER TO BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION**  
 244. **PERIOD.** If the Premises are served by a conventional septic or alternative system, the AAR On-site Wastewater Treatment Facility  
 245. Addendum is incorporated herein by reference.  
 246. (BUYER'S INITIALS REQUIRED) \_\_\_\_\_ BUYER \_\_\_\_\_ BUYER
- 6g. 247. **Swimming Pool Barrier Regulations:** During the Inspection Period, Buyer agrees to investigate all applicable state, county, and  
 248. municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to  
 249. occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt  
 250. of the Arizona Department of Health Services approved private pool safety notice.  
 251. (BUYER'S INITIALS REQUIRED) \_\_\_\_\_ BUYER \_\_\_\_\_ BUYER
- 6h. 252. **BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT**  
 253. **QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE SURROUNDING**  
 254. **AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S**  
 255. **DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PREMISES AND THE**  
 256. **SURROUNDING AREA IS BEYOND THE SCOPE OF BROKER'S EXPERTISE AND LICENSING, BUYER EXPRESSLY**  
 257. **RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD**  
 258. **HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.**  
 259. (BUYER'S INITIALS REQUIRED) \_\_\_\_\_ BUYER \_\_\_\_\_ BUYER
- 6i. 260. **Inspection Period Notice:** Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items  
 261. disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all  
 262. desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be  
 263. provided in a single notice.
- 6j. 264. **Buyer Disapproval:** If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller a  
 265. signed notice of the items disapproved and state in the notice that Buyer elects to either:  
 266. (1) Immediately cancel this Contract, in which case:  
 267. (a) If Buyer's notice specifies disapproval of items as allowed herein, the Earnest Money shall be released to Buyer.  
 268. (b) If Buyer's notice fails to specify items disapproved as allowed herein, the cancellation will remain in effect but Buyer has  
 269. failed to comply with a provision of this Contract and Seller may deliver to Buyer a cure notice as required by Section 7a.  
 270. If Buyer fails to cure their non-compliance within three (3) days after delivery of such notice, Buyer shall be in breach and  
 271. Seller shall be entitled to the Earnest Money. If, prior to expiration of the Cure Period, Buyer delivers notice specifying  
 272. items disapproved as allowed herein, Buyer shall be entitled to a return of the Earnest Money.  
 273. **OR**  
 274. (2) Provide Seller an opportunity to correct or address the items disapproved, in which case:  
 275. (a) Seller shall respond in writing within five (5) days or \_\_\_\_\_ days after delivery to Seller of Buyer's notice of items  
 276. disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed  
 277. Seller's refusal to correct or address any of the items disapproved.  
 278. (b) **If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a**  
 279. **workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days**  
 280. **or \_\_\_\_\_ days prior to the COE Date.**  
 281. (c) If Seller is unwilling or unable to correct or address any of the items disapproved, Buyer may cancel this Contract within  
 282. five (5) days after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs  
 283. first, and the Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as  
 284. provided, Buyer shall close escrow without those items that Seller has not agreed in writing to correct or address.  
 285. **VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS.** Only a written agreement signed by both parties will extend  
 286. response times or cancellation rights.  
 287. **BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN**  
 288. **THE SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE**  
 289. **TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.**

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- 6k. 290. Home Warranty Plan:** Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The  
 291. parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and  
 292. most plans exclude pre-existing conditions.
293. ☐ A Home Warranty Plan will be ordered by ☐ Buyer or ☐ Seller with the following optional coverage  
 294. \_\_\_\_\_, to be issued by \_\_\_\_\_ at a cost  
 295. not to exceed \$ \_\_\_\_\_, to be paid for by ☐ Buyer ☐ Seller ☐ Split evenly between Buyer and Seller  
 296. ☐ Buyer declines the purchase of a Home Warranty Plan.  
 297. \_\_\_\_\_
- (BUYER'S INITIALS REQUIRED)** \_\_\_\_\_ BUYER BUYER
- 6l. 298. Walkthrough(s):** Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct walkthrough(s) of the Premises for  
 299. the purpose of satisfying Buyer that any corrections or repairs agreed to by Seller have been completed, and the Premises are  
 300. in substantially the same condition as of the date of Contract acceptance. If Buyer does not conduct such walkthrough(s), Buyer  
 301. releases Seller and Broker(s) from liability for any defects that could have been discovered.
- 6m. 302. Seller's Responsibility Regarding Inspections and Walkthrough(s):** Seller shall make the Premises available for all inspections  
 303. and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including any propane,  
 304. until COE to enable Buyer to conduct these inspections and walkthrough(s).
- 6n. 305. IRS and FIRPTA Reporting:** The Foreign Investment in Real Property Tax Act ("FIRPTA") provides that, if a seller is a Foreign  
 306. Person, a buyer of residential real property must withhold federal income taxes up to 15% of the purchase price, unless an exception  
 307. applies. If FIRPTA is applicable and Buyer fails to withhold, Buyer may be held liable for the tax. Buyer agrees to perform any acts  
 308. reasonable or necessary to comply with FIRPTA and IRS reporting requirements and Buyer is responsible for obtaining independent  
 309. legal and tax advice.

**7. REMEDIES**

- 7a. 310. Cure Period:** A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any  
 311. provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the  
 312. non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become a  
 313. breach of Contract. If Escrow Company or recorder's office is closed on the last day of the Cure Period, and COE must occur  
 314. to cure a potential breach, COE shall occur on the next day that both are open for business.
- 7b. 315. Breach:** In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the  
 316. breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute  
 317. Resolution obligations set forth herein. In the case of Seller, because it would be difficult to fix actual damages in the event of  
 318. Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept  
 319. the Earnest Money as Seller's sole right to damages; and in the event of Buyer's breach arising from Buyer's failure to deliver the  
 320. notice required by Section 2b, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant  
 321. to Section 2l, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled  
 322. contingency is not a breach of Contract. The parties expressly agree that the failure of any party to comply with the terms and  
 323. conditions of Section 1d to allow COE to occur on the COE Date, if not cured after a cure notice is delivered pursuant to Section 7a,  
 324. will constitute a material breach of this Contract, rendering the Contract subject to cancellation.
- 7c. 325. Alternative Dispute Resolution ("ADR"):** Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this  
 326. Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid  
 327. equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall  
 328. be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of  
 329. an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration  
 330. Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall be  
 331. final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.  
 332. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the  
 333. mediation conference by notice to the other and, in such event, either party shall have the right to resort to court action.
- 7d. 334. Exclusions from ADR:** The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the  
 335. Small Claims Division of an Arizona Justice Court (up to \$3,500) so long as the matter is not thereafter transferred or removed from  
 336. the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or  
 337. agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's lien; or (v) any matter that  
 338. is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action  
 339. ("lis pendens"), or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the  
 340. obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.
- 7e. 341. Attorney Fees and Costs:** The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this  
 342. Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, expert  
 343. witness fees, fees paid to investigators, and arbitration costs.

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SELLER SELLER	BUYER BUYER



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8. ADDITIONAL TERMS AND CONDITIONS

8a. 344.

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SELLER	SELLER		Page 8 of 10		BUYER	BUYER

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- 8b. 390. Risk of Loss:** If there is any loss or damage to the Premises between the date of Contract acceptance and COE or possession, 391. whichever is earlier, by reason of fire, vandalism, flood, earthquake, or act of God, the risk of loss shall be on Seller, provided, 392. however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the purchase price, either Seller or 393. Buyer may elect to cancel the Contract.
- 8c. 394. Permission:** Buyer and Seller grant Broker(s) permission to advise the public of this Contract.
- 8d. 395. Arizona Law:** This Contract shall be governed by Arizona law and jurisdiction is exclusively conferred on the State of Arizona.
- 8e. 396. Time is of the Essence:** The parties acknowledge that time is of the essence in the performance of the obligations described 397. herein.
- 8f. 398. Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed by 399. separate written agreement(s), which shall be delivered by Broker(s) to Escrow Company for payment at COE, if not previously paid. 400. If Seller is obligated to pay Broker(s), this Contract shall constitute an irrevocable assignment of Seller's proceeds at COE. If Buyer is 401. obligated to pay Broker(s), payment shall be collected from Buyer as a condition of COE. **BROKER COMPENSATION IS NOT SET 402. BY LAW, NOR BY ANY BOARD, ASSOCIATION OF REALTORS®, MULTIPLE LISTING SERVICE, OR IN ANY MANNER OTHER 403. THAN AS FULLY NEGOTIATED BETWEEN BROKER AND CLIENT.**
- 8g. 404. Copies and Counterparts:** A fully executed facsimile or electronic copy of the Contract shall be treated as an original Contract. 405. This Contract and any other documents required by this Contract may be executed by facsimile or other electronic means and in any 406. number of counterparts, which shall become effective upon delivery as provided for herein, except that the Disclosure of Information 407. on Lead-Based Paint and Lead-Based Paint Hazards may not be signed in counterpart. All counterparts shall be deemed to 408. constitute one instrument, and each counterpart shall be deemed an original.
- 8h. 409. Days:** All references to days in this Contract shall be construed as calendar days and a day shall begin at 12:00 a.m. and 410. end at 11:59 p.m.
- 8i. 411. Calculating Time Periods:** In computing any time period prescribed or allowed by this Contract, the day of the act or event from 412. which the time period begins to run is not included and the last day of the time period is included. Contract acceptance occurs on the 413. date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate Broker. Acts that 414. must be performed three (3) days prior to the COE Date must be performed three (3) full days prior (i.e. – if the COE Date is Friday 415. the act must be performed by 11:59 p.m. on Monday).
- 8j. 416. Entire Agreement:** This Contract, and any addenda and attachments, shall constitute the entire agreement between Seller and 417. Buyer, shall supersede any other written or oral agreements between Seller and Buyer and can be modified only by a writing signed 418. by Seller and Buyer. The failure to initial any page of this Contract shall not affect the validity or terms of this Contract.
- 8k. 419. Subsequent Offers:** Buyer acknowledges that Seller has the right to accept subsequent offers until COE. Seller understands that 420. any subsequent offer accepted by Seller must be a backup offer contingent on the cancellation of this Contract.
- 8l. 421. Cancellation:** A party who wishes to exercise the right of cancellation as allowed herein may cancel this Contract by delivering 422. notice stating the reason for cancellation to the other party or to Escrow Company. Cancellation shall become effective immediately 423. upon delivery of the cancellation notice.
- 8m. 424. Notice:** Unless otherwise provided, delivery of all notices and documentation required or permitted hereunder shall be in writing 425. and deemed delivered and received when: (i) hand-delivered; (ii) sent via facsimile transmission; (iii) sent via electronic mail, if email 426. addresses are provided herein; or (iv) sent by recognized overnight courier service, and addressed to Buyer as indicated in Section 427. 8q, to Seller as indicated in Section 9a and to Escrow Company indicated in Section 3a.
- 8n. 428. Release of Broker(s):** Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this 429. transaction from any and all liability and responsibility regarding financing, the condition, square footage, lot lines, 430. boundaries, value, rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes, 431. governmental regulations, insurance, price and terms of sale, return on investment or any other matter relating to the value 432. or condition of the Premises. The parties understand and agree that Broker(s) do not provide advice on property as an 433. investment and are not qualified to provide financial, legal, or tax advice regarding this real estate transaction.
434. **(SELLER'S INITIALS REQUIRED)** \_\_\_\_\_ **(BUYER'S INITIALS REQUIRED)** \_\_\_\_\_  
SELLER SELLER BUYER BUYER
- 8o. 435. Terms of Acceptance:** This offer will become a binding Contract when acceptance is signed by Seller and a signed copy delivered 436. in person, by mail, facsimile or electronically, and received by Broker named in Section 8q 437. by \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m., Mountain Standard Time. 438. Buyer may withdraw this offer at any time prior to receipt of Seller's signed acceptance. If no signed acceptance is received by this 439. date and time, this offer shall be deemed withdrawn and Buyer's Earnest Money shall be returned.
- 8p. 440. THIS CONTRACT CONTAINS TEN (10) PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE 441. THAT YOU HAVE RECEIVED AND READ ALL TEN (10) PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND 442. ATTACHMENTS.**

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**Residential Resale Real Estate Purchase Contract >>**

**8q. 443. Broker on behalf of Buyer:**

444.	PRINT AGENT'S NAME	AGENT MLS CODE	AGENT STATE LICENSE NO.
445.	PRINT AGENT'S NAME	AGENT MLS CODE	AGENT STATE LICENSE NO.
446.	PRINT FIRM NAME	FIRM MLS CODE	
447.	FIRM ADDRESS	STATE	ZIP CODE FIRM STATE LICENSE NO.
448.	PREFERRED TELEPHONE	FAX	EMAIL

**8r. 449. Agency Confirmation:** Broker named in Section 8q above is the agent of (check one):

450. ☐ Buyer; ☐ Seller; or ☐ both Buyer and Seller

**8s. 451. The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of a copy hereof including the Buyer Attachment.**

453.	^ BUYER'S SIGNATURE	MO/DA/YR	^ BUYER'S SIGNATURE	MO/DA/YR
454.	^ BUYER'S NAME PRINTED		^ BUYER'S NAME PRINTED	
455.	ADDRESS		ADDRESS	
456.	CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	

**9. SELLER ACCEPTANCE**

**9a. 457. Broker on behalf of Seller:**

458.	PRINT AGENT'S NAME	AGENT MLS CODE	AGENT STATE LICENSE NO.
459.	PRINT AGENT'S NAME	AGENT MLS CODE	AGENT STATE LICENSE NO.
460.	PRINT FIRM NAME	FIRM MLS CODE	
461.	FIRM ADDRESS	STATE	ZIP CODE FIRM STATE LICENSE NO.
462.	PREFERRED TELEPHONE	FAX	EMAIL

**9b. 463. Agency Confirmation:** Broker named in Section 9a above is the agent of (check one):

464. ☐ Seller; or ☐ both Buyer and Seller

**9c. 465. The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a copy hereof and grant permission to Broker named in Section 9a to deliver a copy to Buyer.**

467. ☐ Counter Offer is attached, and is incorporated herein by reference. Seller must sign and deliver both this offer and the Counter Offer. If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

469.	^ SELLER'S SIGNATURE	MO/DA/YR	^ SELLER'S SIGNATURE	MO/DA/YR
470.	^ SELLER'S NAME PRINTED		^ SELLER'S NAME PRINTED	
471.	ADDRESS		ADDRESS	
472.	CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	

473. ☐ OFFER REJECTED BY SELLER: MONTH \_\_\_\_\_ DAY \_\_\_\_\_, 20\_\_\_\_ YEAR \_\_\_\_\_ (SELLER'S INITIALS) \_\_\_\_\_

**For Broker Use Only:**

Brokerage File/Log No. \_\_\_\_\_ Manager's Initials \_\_\_\_\_ Broker's Initials \_\_\_\_\_ Date \_\_\_\_\_ MO/DA/YR

**VI. REVIEW OF THE AAR PURCHASE CONTRACT – VIDEO**

**VII. TERMINATION OF CONTRACTS**

- **Performance.** Being the most desirable outcome, performance refers to the parties performing all of their duties and receiving all of their rights.
- **Mutual agreement.** Both parties decide they do not want to proceed with the contract and mutually agree to release each other.
- **Impossibility.** If an issue arises making it truly impossible for the parties to perform, the contract will have to be terminated by impossibility. For instance, a contract on a home that is destroyed due to fire may be terminated by impossibility.
- **Operation of law.** Some contracts cannot be performed because doing so would be an illegal act. Remember that “legality of object” is required of a valid contract.

**Window to the Law – NAR Video**

## Legalities of Contracts Quiz

1. A contract that is required to be in writing and is not, is considered:
  - a. valid
  - b. void
  - c. voidable
  - d. unenforceable
2. If the buyers are unable to obtain financing for the purchase, they are *obligated* to:
  - a. be able to purchase all cash.
  - b. demonstrate they have the funds available with a specified number of days of acceptance.
  - c. deliver a notice of inability to qualify or risk the loss of their earnest money.
  - d. obtain a loan at a high rate of interest from a subprime lender.
3. A lease between a landlord and a 17-year-old tenant is considered:
  - a. valid
  - b. void
  - c. voidable
  - d. unenforceable
4. When does an offer technically become a contract?
  - a. when it is accepted by the seller
  - b. when it is accepted by either party
  - c. when it is accepted and signed by either party
  - d. when it is accepted, signed, and communicated to the offeror
5. An “expressed” contract:
  - a. can be oral.
  - b. must be in writing.
  - c. is based on the actions of the parties.
  - d. must be bilateral
6. “Time is of the Essence” means:
  - a. All acts must be met on or before the specified deadline.
  - b. The other party may declare a breach of contract if the deadline is not met.
  - c. The parties *could* continue with the escrow if they choose to.
  - d. All of the above

7. The Parol Evidence Rule pertains to:
  - a. verbal statements are not enforceable or binding.
  - b. a determination of guilt may only be reached upon a preponderance of the evidence.
  - c. a convict's conditional release from prison.
  - d. ostensible contracts.
  
8. A contract that is missing offer and acceptance, legality of object, or consideration is considered:
  - a. valid
  - b. void
  - c. voidable
  - d. unenforceable
  
9. Real estate contracts and personal property valued over \$500 require the contract to be in writing to be enforceable per the:
  - a. Statute of Limitations
  - b. Statute of Frauds
  - c. Statute of Obligations
  - d. Statute of Liberty
  
10. Whenever the Arizona Association of REALTORS Purchase Contracts references “days,” those days are considered to be:
  - a. banking days
  - b. banking days not including federal holidays
  - c. calendar days
  - d. None of the above