



1



2



3

Real Estate Sales Contracts

Nationally, could be called:

- Contract for Purchase and Sale
 - Purchase Agreement
 - Earnest Money Agreement
 - Buy-Sell Agreement
 - A Deposit Receipt

4

Real Estate Sales Contracts

North Carolina



- Offer to Purchase and Contract
- 2-T Contract

5

Contracts Approved by NC Bar Association and NC Realtors®

Not a Realtor®?




Need a lawyer to draw up one to use

6

The Sales Contract **Rule A.0012**

19 Mandated Details in a Real Estate Contract

1. Names of the Buyer and Seller
2. Legal description of the property
3. Itemization of Personal Property
4. Purchase Price and Manner of Payment
5. Financing and Promissory Note
6. Assumption of Loan Information
7. Amount of Earnest Money, Escrow Agent

7

The Sales Contract **Rule A.0012**

19 Mandated Details in a Real Estate Contract

8. Any Loan that Must be Obtained
9. Buyer's Intended Use [No Known Prohibitants]
10. Special Assessments
11. Date for Closing and Transfer of Possession
12. Signatures of Buyer and Seller
13. Date of Offer and Acceptance

8

The Sales Contract **Rule A.0012**

19 Mandated Details in a Real Estate Contract

14. Transfer of General Warranty Deed
15. Items to be Prorated
16. Who pays closing costs
17. Buyer's right to Inspect Property; Repair Requests
18. Property will be in same condition
19. Identity of each Agent and Firm Involved

9

2 Items that May **NEVER** Appear in a Contract to Purchase

- 1** Any Discussion about Brokerage Commission
- 2** Any Attempt to Disclaim Brokerage Liability

10

The Sales Contract

Every Contract Has Two Parties:

The Buyer (vendee)	The Seller (vendor)
	

11

The Sales Contract

- An offer can mature or ripen into a sales contract
- The sales contract is the **most important document** in a transaction because it establishes the legal rights and obligations of the buyer and seller; it dictates the contents of a deed

12

Items to Be Addressed In A Contract

1. Price
2. Terms
3. Legal Description
4. Kind and Condition of the Title
5. Form of Deed the Seller Will Deliver
6. Kind of Evidence Is Required

13

Items to Be Addressed In A Contract

7. Who Will Provide Title Evidence
8. How Defects, If any, Will Be Eliminated
9. All the terms, conditions, and contingencies of the agreement must be spelled out

Ambiguous or vague terms may create an unenforceable contract

14

The Sales Contract

Statute of Frauds provides that any contract for the *sale of real estate* must be in writing and signed to be enforceable.

Page 284

15

Uniform Electronic Transaction Act (UETA)

North Carolina's version of E-sign Legislation

"an electronic sound, symbol, or process attached to, or logically associated with, a record and executed or adopted by a person with the intent to sign the record"

electronic signatures on contracts are binding
e-mail fax docuSign



Page 284

16

The Sales Contract

The Offer and Acceptance

- Offer - 1st step
- Counter Offer - Rejection of the original offer
- Acceptance - Signature of offeree(s) constitutes acceptance (*mirror image*)
- Must be communicated back to offeror

17

The Sales Contract

Methods of Communicating Offers & Acceptance

Acceptance of an offer becomes complete and a contract is formed when communication is received by the offeror's machine!



18

The Sales Contract

Methods of Communicating Offers & Acceptance

Mailbox Rule—When offer is accepted and put in the mailbox. It is considered as having been delivered when mailed, not when received.

This only creates a contract it does not communicate the contract. But the contract cannot be revoked.



19

The Sales Contract

Termination of Offers

- Rejection
- Failure to respond in the time frame requested
- If not accepted in a reasonable time frame
- Prior to acceptance the offeror revokes it
- Death of the parties involved



20

NCAR/NCBA Standard Form 2-T and Various Addenda

Major Contract Provisions of NCAR/NCBA Standard Form 2-T

(See Guidelines for Completing The Offer to Purchase and Contract Form on the NCAR website www.ncrealtors.com.)

Names—The full legal names and marital status of the buyers and sellers

see Figure 10.1 Pages 302 -

21

NCAR/NCBA Standard Form 2-T
and Various Addenda

**Major Contract Provisions of NCAR/NCBA
Standard Form 2-T**

Property—The legal description, preferably from
the deed, and street address of the property

Purchase Price—The price and the buyer's
complete financial arrangements for its
payment


see Figure 10.1 Pages 271 - 283

22

NCAR/NCBA Standard Form 2-T
and Various Addenda

Earnest Money—Deposit to be credited to buyer
at closing or to be retained by seller if buyer
breaches the sales contract

Must be deposited in a
TRUST or **ESCROW** account
within three (3) banking
days of contract formation.



23

NCAR/NCBA Standard Form 2-T
and Various Addenda

Escrow Agent—person(s) identified to hold earnest
money, and its treatment especially in the case
of disputed funds and the naming of the escrow
agent

Effective Date—Date of contract formation

24

**NCAR/NCBA Standard Form 2-T
and Various Addenda**

Due Diligence Fee—Fee paid directly to seller

Due Diligence Period—Specified time period for buyer to determine if contract will be consummated



No due diligence fee is required

25

**NCAR/NCBA Standard Form 2-T
and Various Addenda**

Settlement Date and Closing—When funds are exchanged. Buyer determined place.

Special Assessments—By a governmental authority or HOA

Fixtures—Identification of any fixtures that will be removed

Personal Property—Identification of any personal property will be conveyed

26

**NCAR/NCBA Standard Form 2-T
and Various Addenda**

Buyer's Due Diligence Process—A lengthy list of suggested activities for the buyer's due diligence period

Contingency — a provision in a contract that requires a certain act to be done or a certain event to occur before the contract becomes binding.

27

*NCAR/NCBA Standard Form 2-T
and Various Addenda*

Buyer Representations—about transactional plans and needs, such as the need to sell currently held property prior to settlement

Buyer Obligations—Identification of buyer expenses and fees

28

*NCAR/NCBA Standard Form 2-T
and Various Addenda*

Seller Representation—Clarification of seller disclosures

Seller Obligations—Consolidation of seller obligations under the contract and the remedy for a material breach

29

*NCAR/NCBA Standard Form 2-T
and Various Addenda*

Prorations & Adjustments—Identification of items that are subject to proration or adjustment

Home Warranty—Parameters for any home warranty to be provided by the seller for the buyer's benefit

30

NCAR/NCBA Standard Form 2-T
and Various Addenda

Condition of Property (risk of loss)—at closing to buyer in same or better condition

Delay in Closing—Predetermined 14-day grace period for delay in settlement/closing ending with unilateral right to terminate

31


NCAR/NCBA Standard Form 2-T
and Various Addenda

Possession—Possession of the property to be transferred after recordation of the deed; any deviation from this should be accompanied by appropriate addenda

Other provisions and conditions—Any attached standard NCAR/NCBA addenda to the OPC should be noted on the preprinted list

32

NCAR/NCBA Standard Form 2-T
and Various Addenda



Addenda

33

Submitting and Handling Offers

Submitting Offers to Sellers




Pages 312

34

Submitting and Handling Offers

Submitting Offers to Sellers

NC License Law says a broker has no later than 3 days to submit and offer.



35

Submitting and Handling Offers

Multiple Offers

Seller can work with 1 offer or ask for "highest and best"



Its Seller's decision; not agent

Buyer's can improve their offer or stay with original offer

36

Submitting and Handling Offers

Handling Offer to Purchase
Modifications and Counteroffers


- Any changes to the original offer rejects the offer and creates a new offer (counteroffer).
- Changes must be made in **writing** and **initialed** by both parties to create binding contract.

37

Submitting and Handling Offers

Response to Buyer's Offer (Form 340-T)

Use of this form is a rejection of the offer but is **NOT** a counteroffer.





Pages 313

38

Submitting and Handling Offers

Furnishing copies of Contracts to Buyer/Seller

Rule A.0106 says a broker has no later than 3 days to provide copies of documents.





39

Submitting and Handling Offers

There are usually six (6) copies of the contract:

1. Buyer
2. Buyer Agent
3. Seller
4. Seller Agent
5. Lender
6. Attorney



40

Installment Land Contracts

AKA

- Land Contract
 - Land Sales Contract
 - Contract or Agreement for Deed

41

Installment Land Contracts

A.K.A. Seller Financing

It is two things:

1. A sales contract
2. A Financing instrument

Pages 298

42

Installment Land Contracts

- Seller (vendor) retains *legal* title, while
- Buyer (vendee) possession & receives *equitable* title.
- The contract is a cloud on the seller's title.

43

Installment Land Contracts
Advantages and Disadvantages for the *seller*



1. Income tax benefits
2. Retention of legal title in case the buyer defaults
3. Can make property desirable to buyers
4. Disadvantageous if seller wishes to cash out



44

Installment Land Contracts:
Advantages & Disadvantages for the *Buyer*



1. May be only way to finance the transaction
2. May be lower closing costs than with institutional financing
3. Tax advantages of ownership and income from property
4. Can lose all payments in default
5. Can't use the property as collateral



45

Installment Land Contracts

- *NC does not have an approved contract for this. An attorney will need to create it.*
- *North Carolina law passed in October, 2011 governs any installment land contract used to finance property that will be primary residence of buyer*
 - 1. Buyer has three-day rescission period*
 - 2. Seller required to record contract within five days*
 - 3. Seller must allow 30 days for buyer to cure any default*

46

Installment Land Contracts

*Requires seventeen (17) provisions
(Page 299)*

47

Installment Land Contracts

*Option to Purchase Real Estate
Unilateral Contract*

- *Owner is the "optionor"*
- *Buyer is the "optionee"*

48

Installment Land Contracts

Option to Purchase Real Estate

1. A contract by which an *optionor* gives an *optionee* the right to buy or lease the owner's property at a fixed price within a stated period of time.
2. The *optionee* gives agreed-upon consideration (option fee) and has the right to:
 - a. Exercise the option to buy or lease the property
 - b. Let the option expire

49

Installment Land Contracts

Option to Purchase Real Estate

Requirements of North Carolina Options

1. Must be in writing per Statute of Frauds
2. Must be recorded to be enforceable against claims of third parties per North Carolina Connor Act
3. There is no standard option to purchase contract form

50

Installment Land Contracts

Option to Purchase Real Estate

Preemptive Rights

Gives a party the first right to purchase real property.

- Right of First Refusal
- Right of First Opportunity to Purchase

51



52
