

**GUIDELINES FOR COMPLETING THE OFFER TO PURCHASE AND CONTRACT FORM**  
**(Standard Form No. 2; Copyright 7/2002)**

**INTRODUCTION:** These guidelines are provided to assist agents and attorneys who are completing the Offer to Purchase and Contract form on behalf of Buyers and Sellers. The Offer to Purchase and Contract is the most important document in any real estate sale and it is imperative that it accurately reflects the entire agreement of the Buyer and Seller. An improper contract may have substantial adverse effects on the rights and interests of the parties. These guidelines include general comments about contract completion as well as suggestions and explanations regarding selected contract provisions with which agents often have difficulty. However, situations will frequently arise that are not covered by these guidelines. Agents should always remember that an attorney should be consulted any time there is uncertainty regarding the proper completion of this important form.

**USE OF FORM:** The Offer to Purchase and Contract form, Copyright 7/2002, is jointly approved by the NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. and the NORTH CAROLINA BAR ASSOCIATION, as Standard Form No. 2. The version of this form with the REALTOR® logo is produced by NCAR for use by its members, only as printed. The version of this form without the REALTOR® logo is produced for the NORTH CAROLINA BAR ASSOCIATION and may be used, only as printed, by attorneys and any real estate agent.

This form may be used in a variety of real estate sales transactions, but it was developed primarily for use in the sale of existing single family residential properties. Do not use this form as a substitute for an option contract, lease-option agreement, lease-purchase agreement or installment land contract. Also, if the sale involves the construction (or completion of construction) of a new single-family dwelling, use the current standard New Construction Addendum (NCAR/NCBA Form 2-A-3) or consult a N.C. real estate attorney for an appropriate form.

**GENERAL INSTRUCTIONS:**

1. Type this form if possible; otherwise print or write legibly in ink.
2. Fill in all blank spaces. If any space is not used, enter "N/A" or "None" as appropriate.
3. Be precise. Avoid the use of abbreviations, acronyms, jargon, and other terminology that may not be clearly understood.
4. Every change, addition or deletion to an offer or contract must be initialed and should be dated by both Buyer and Seller.
5. If numerous changes are made or if the same item (such as the purchase price) is changed more than once, complete a new contract form to avoid possible confusion or disputes between the parties.
6. Review with the parties all contract provisions. Advise the parties to consult their attorney if they have any question about the legal consequences of the contract or any particular provision.

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**NAMES OF BUYER AND SELLER:** Fill in the complete name of each Buyer. If husband and wife, show the names of both (John A. Doe and wife, Mary B. Doe). Do not use "Mr. and Mrs. John A. Doe." Fill in the complete name of each Seller. If husband and wife, show the names of both (John A. Doe and wife, Mary B. Doe). Do not use "Mr. and Mrs. John A. Doe," "Owner of Record," or last name only.

1. **REAL PROPERTY:** Fill in City, County and Street Address. If any are not applicable, indicate by "None." CAUTION: A street address alone is generally not an adequate legal description.

**Legal Description:** Even if the Property has a street address, include a legal description sufficient to identify and distinguish the Property from all other property. An adequate legal description includes any of the following:

- (1) **Reference to a recorded plat (map):** Include the lot #, block #, name of subdivision, and recording reference for the plat as recorded in the Register of Deeds office and fill in the county (or counties). CAUTION: A reference to a tax map alone is generally not an adequate legal description.
- (2) **Reference to a recorded deed:** Insert the book # and the page # of the Deed Book as recorded in the Register of Deeds office and fill in the county (or counties).
- (3) **Metes and bounds description:** Do not attempt to complete a metes and bounds exhibit. An attorney should be consulted prior to completing the Offer to Purchase and Contract if a metes and bounds description is necessary or if any of the above legal descriptions is not available.

**Covenants:** Purchasers take title to property subject to the restrictive covenants and are bound to follow them, even if they did not actually know the property was subject to restrictive covenants. Once restrictions are properly imposed upon a property, they “run with the land” and are binding on the owner and all subsequent purchasers. No owner or purchaser can use the property for any purpose that violates the restrictions. Therefore, before the Buyer signs an offer to purchase for property which is located in a subdivision or development, the Buyer should review any document that may limit the use of the Property or govern the Property owner or obligate the Property owner to a financial payment other than the purchase price, taxes, and governmental assessments. If such documents are not available from either the listing agent or the seller, then an attorney should be consulted prior to completing the form.

If the Property is subject to an owners’ association, it is recommended that the current standard Owners’ Association Addendum (NCAR/NCBA Form 2-A-12) be attached.

**2. FIXTURES:** If the Seller wishes to *exclude* from the sale any items that are presently on the Property and are listed in the fixtures clause, or to *exclude* any items that are presently on the Property that may usually be considered to be real property (“fixtures”) and are NOT listed in the fixtures clause, list such items. (EXAMPLES: Storage shed; mailboxes; wall/door mirrors; etc.) It is not necessary to cross out items that are listed in the fixtures clause but are not present on the Property. NOTE: Care should be taken to ascertain that any fixtures *included* in the sale are owned by the Seller and are not merely rented. (EXAMPLE: Water treatment/conditioner equipment) It is advisable to list any excluded item about which a dispute may arise.

**3. PERSONAL PROPERTY:** List all items of personal property that are to be included in the sale. (EXAMPLES: Curtains, draperies; etc. free standing appliances such as a refrigerator or range; fireplace tools; window air conditioner; etc.) It is advisable to list any item included in the sale about which some dispute may arise.

**4. PURCHASE PRICE:** Insert the amount of the purchase price in dollars.

**Subparagraph (a):** Insert the amount of the earnest money deposit in dollars, check the appropriate box for method of payment, and insert the name of the Escrow Agent designated to hold the earnest money (usually the listing firm), not the name of an individual agent (unless it is to be held by a broker who is a sole practitioner). Note that the name indicated here should also be indicated on the “Firm” line at the bottom of the form under the acknowledgment of receipt of the earnest money. NOTE: Any earnest money check should be made payable to the designated Escrow Agent.

**Subparagraph (b):** If an additional earnest money deposit is to be given at a later date, insert the amount of the additional deposit in dollars and insert the due date. NOTE: Time is “of the essence” with respect to the payment of any additional earnest money deposit.

**Subparagraph (c):** Insert the dollar amount of the existing loan on the Property; complete and attach the current standard Loan Assumption Addendum (NCBA/NCAR Form 2-A-6).

**Subparagraph (d):** Insert the dollar amount of the financing from the Seller; complete and attach the current standard Seller Financing Addendum (NCAR/NCBA Form 2-A-5).

**Subparagraph (e):** Insert the dollar amount of the balance due from the Buyer. NOTE: This amount should equal the purchase price minus any dollar amounts inserted in subparagraphs (a), (b), (c), or (d). In the case of a counteroffer, which alters any figure in Paragraph 4, all altered figures must be initialed and dated by all parties. Care should be taken to be certain that the figures in subparagraphs (a) through (e), when added, always equal the purchase price.

**5. CONDITIONS:**

**Subparagraph (a):** When this financing contingency provision is used, remember the following points:

- (1) Check off or insert the type of loan the Buyer will be obtaining. If FHA or VA financing is being used, attach the current standard FHA/VA Financing Addendum (NCAR/NCBA Form 2-A-4).
- (2) The principal amount may be either a specific loan amount expressed as a dollar figure or as a percentage of the purchase price (EXAMPLE: 95% of purchase price).
- (3) Insert the specific term of the desired loan.
- (4) Insert a specific maximum interest rate and a specific maximum percentage for discount points. *Do NOT use “market” or “prevailing.”*

(5) Insert the number of days the Buyer has to apply for the loan. Insert the date by which the Buyer is to obtain the loan commitment letter. Allow for sufficient time.

**Subparagraph (b):** Insert the *intended* use of the Property by the Buyer. Be specific. (EXAMPLES: Single-family residential; two-family residential; three-family residential; type of business or office use; type of commercial use.) If the intended use is unusual or different from the current allowable use, the Buyer should make an inquiry *prior to completing the Offer to Purchase and Contract* to determine if there are any zoning ordinances, governmental regulations or restrictive covenants that would prohibit such intended use. If the Buyer indicates that there is more than one intended use of the Property, consult an attorney prior to completing the Offer to Purchase and Contract.

**6. SPECIAL ASSESSMENTS:** This paragraph deals only with *special* assessments levied by a governmental agency or an owners' association for the purpose(s) stated. A "Confirmed" assessment is defined as an assessment that has been imposed by a governing body. A "Pending" assessment is defined as an assessment that is under consideration by a governing body. *Regular owners' association dues are covered in Paragraph 7.*

**7. PRORATIONS AND ADJUSTMENTS:** Insert the dollar amount and time period covered by payment of the regular owners' association dues. In the case of a condominium or townhouse resale, it is recommended that the current standard Owners' Association Addendum (NCAR/NCBA Form 2-A-12) be attached.

**8. CLOSING EXPENSES:** Insert the **fixed** dollar amount the Seller will pay. **Include in this amount any FHA/VA lender and inspection costs (seller mandated fees) to be paid by Seller. Do NOT use "expenses not to exceed" or "a maximum of" or similar language.** Examples of Buyer's expenses associated with closing may include, but are not necessarily limited to, discount points, loan origination fees, appraisal fees, attorney's fees, inspection fees and loan "pre-pays" (taxes, insurance, etc.).

**12. PROPERTY DISCLOSURE AND INSPECTIONS:**

**Subparagraph (a) PROPERTY DISCLOSURE:** Indicate the status of the Buyer's receipt of the required N.C. Residential Property Disclosure Statement by checking the appropriate box. If the transaction is exempt from the N.C. Residential Property Disclosure Act, then enter one of the following: (1) Court Ordered Transfer; (2) Borrower to Lender Transfer; (3) Fiduciary Transfer; (4) Co-owner to Co-owner Transfer; (5) Within Family Transfer; (6) Spouse to Spouse Divorce Decree Transfer; (7) Tax Sale; (8) Governmental Transfer; (9) First Sale of Dwelling Never Inhabited; (10) Lease with Option to Purchase (where lessee occupies or intends to occupy the dwelling) (**Caution: See warning under "Use of Form"**); (11) Buyer and Seller Agreement; or (12) Property to be transferred consists of less than 1 or more than 4 residential units. *See North Carolina General Statutes Section 47E-2 for a complete description of exemptions.*

If the Property is residential property built prior to 1978, the current standard Lead-Based Paint or Lead-Based Paint Hazard Addendum (NCAR/NCBA Form 2-A-9) must be attached.

**Subparagraph (b) PROPERTY INSPECTION:** Insert the date by which all Property inspections will be completed by the Buyer *and* written notice of necessary repairs given to the Seller. Also insert the number of days the Seller has to provide Buyer a written response to Buyer's notice of necessary repairs. It is strongly recommended that the Property inspections be completed within 14 days of formation of the contract unless there are extenuating circumstances that would prohibit such inspections being completed by such time. *In all cases, the inspections should be performed as soon as possible.*

**Subparagraph (c) WOOD-DESTROYING INSECTS:** Insert any structures on the Property that are not subject to a wood-destroying insect inspection. NOTE: Lender may not permit exclusions.

**14. CLOSING:** Insert the desired closing date. The closing date established should provide a reasonable period of time for obtaining inspections, obtaining loan approval, satisfying contract conditions, and preparing closing documents. Also, provide the full name of each grantee in the deed.

**15. POSSESSION:** The contract assumes possession will be delivered at closing. "Closing" is defined in Paragraph 14 as the date and time of recording of the deed. If the parties agree to transfer possession to the Buyer prior to recording of the deed, then attach a Buyer Possession Before Closing Agreement (NCAR/NCBA Form 2-A-7) or consult a N.C. real estate attorney for an appropriate agreement. If the parties agree to permit the Seller to remain in possession after recording of the deed, then attach a Seller Possession After Closing Agreement (NCAR/NBCA Form 2-A-8) or consult a N.C. real estate attorney for an appropriate agreement.

**16. OTHER PROVISIONS AND CONDITIONS:** Indicate by name any attached Addenda. Any Addenda referred to here should be properly identified, signed under seal by the parties, and attached to each original of the contract. Any copy of the contract must always have all Addenda attached. Additional provisions or conditions may be added in this space if necessary. Identify each such provision or condition as (a), (b), etc. If any added provision conflicts with another provision of the contract, clarify which provision is to govern. **CAUTION: Agents must be extremely careful when adding contract provisions. The drafting of such provisions could constitute the unauthorized practice of law and could result in disciplinary action against an agent by the North Carolina Real Estate Commission, as could the inclusion of an inadequate or improper provision.**

**22. NOTICE AND EXECUTION:** Usually, at least six originals of the completed and signed contract are needed: one each for the Buyer and Seller, the real estate firms involved, the closing attorney and the lender. When using one original contract and making copies for the parties to sign, original signatures should be affixed to each copy as well as the original.

**Buyer acknowledges having made an on-site personal examination of the Property prior to the making of this offer: If the Buyer is purchasing the Property without personally having examined it, this sentence should be deleted by marking through it and having the parties both initial and date the deletion.**

**SIGNATURES AND DATES:** All parties with an ownership interest must sign as Seller and all parties named as Buyer must sign as Buyer.

(1) If a married Buyer is taking title as sole owner, and if the contract contains a financing contingency provision, it is advisable to have the Buyer's spouse join in signing the contract so that the spouse will be obligated to join in signing any deed of trust that may be required by the lender to secure the Buyer's loan. Otherwise, the Buyer may be able to avoid performance of the contract if the spouse refuses to sign the deed of trust.

(2) ***If the Seller(s) is married, both the husband and wife always must sign the contract.*** This is true even if the Property is owned by only one spouse. The non-owner spouse holds a potential "marital life estate" under North Carolina law and must sign the deed in order for the other spouse to convey clear title. The signature of the non-owner spouse on the contract will obligate that spouse to join in signing the deed. Note, however, that the non-owner spouse cannot legally be forced to sign the contract.

(3) Indicate the dates that the parties actually sign the Offer to Purchase and Contract.

**EARNEST MONEY ACKNOWLEDGEMENT:** The "Firm" should be the same as the firm indicated as Escrow Agent (usually the listing firm) in Paragraph 4(a). The agent signing for the firm serving as Escrow Agent on the "By:" line must be associated with that firm. Usually, this will be the individual listing agent.

**AGENT/FIRM NAMES AND CONFIRMATION OF AGENCY RELATIONSHIP:** Enter the name of the individual selling agent and his or her firm and phone number, and the name of the individual listing agent and his or her firm and phone number, and check the appropriate agency representation box for each. Note that this procedure is **confirmation** of a prior disclosure of the agency relationship and in no way should be considered as an initial disclosure of agency relationship. Signatures are not necessary.