



MESA
Real Estate Institute, LLC
New Mexico



CLEAR THE CONFUSION: OFFERS

(COUNTERS, MULTIPLES,
CONTINGENCIES ETC.)

4 CE



Instructor: Rich Cederberg

In addition to the 2022, 2023 & 2024 NMREC Core courses, MESA REI offers the following:

Core Electives:

- A Look at Real World Issues- Claim Studies 4CE
- Anatomy of a Listing Contract 4CE
- Anatomy of a Purchase Contract 4CE
- Broker Beware: Getting from Contract to Closing 4CE
- Clear the Confusion: Offers (Counters, Multiples, Contingencies, etc.) 4CE
- Disclose, Disclose, Disclose (Unless You're NOT Supposed To) 4CE
- E & O Insurance: Know What you are Buying & Why 4CE
- Inspections, ORR's & Repairs, OH MY! 2 CE
- Intro to Seller Financing 4CE
- NMAR Forms Update 4CE
- NMAR's Many Miscellaneous Forms 4CE
- One Thing Leads to Another- The PA Contingencies Explained 2CE
- Property Management & The 3 Way Reconciliation 2CE Prop Mang
- QB Refresher Course 6CE
- Taxes and Your Real Estate Business 4CE
- Trust Accounts 4CE Prop Mang
- Yes Your Honor, I Did Disclose! 4CE
- Understanding & Using NMAR Forms 8CE
- UORRA 6CE Prop Mang
- Wells & Septics 4CE

Ethics Electives:

- Handling Multiple Offers Ethically & Effectively 4CE
- NAR Code of Ethics & Enforcement 4CE

Other:

- NMREC Meeting Replay CE tbd

Electives:

- Bump In the Pipe 2CE
- Case Studies- Residential Property Management 3CE
- Going to Court- Residential Property Management 3CE

On Demand Classes:

- Handling Multiple Offers 4CE Ethics
- QB Refresher Course 6CE Core Elective





NEW MEXICO ASSOCIATION OF REALTORS® — 2023
ADDENDUM NO. _____
ESCALATION CLAUSE ADDENDUM

The following terms and conditions are hereby incorporated into and made part of the Purchase Agreement dated: _____ between _____ (“Buyer”) and _____ (“Seller”) and relating to the following Property:

Address (Street, City, State, Zip Code) _____

Legal Description

Or see metes and bounds description attached as Exhibit _____, _____ Count(ies), New Mexico (hereinafter the “Purchase Offer”).

1. **DEFINITIONS:** For purposes of this Addendum, the following terms have the following meanings:
 - A. **“Net Proceeds”** means the Purchase Price *minus the following if paid by the Seller:* 1) payoffs on mortgages, loans and liens and associated fees; 2) real estate commissions; 3) closing costs; and 4) other transaction-related expenses, including, **but not limited to** fees set forth in the following paragraphs of this Purchase Agreement: Assessments, Costs to be Paid, Inspections, and Home Warranty.
 - B. **“Other Offer(s)”** means one or more bona fide offers to purchase the Property with terms acceptable to Seller, which result in net proceeds of sale payable to Seller equal to or greater than the Net Proceeds of sale payable to Seller under this Purchase Offer.
2. **ESCALATION TERMS:** The following terms will apply to increase the Purchase Price in this Purchase Offer (“Purchase Price”):
 - A. **Escalating Factor:** In the event that Seller receives one or more Other Offer(s), then the Purchase Price (Para. 2 of this Purchase Agreement) shall automatically increase to an amount which generates net proceeds of Purchase to Seller equal to \$ _____ (“Escalating Factor”) in excess of the highest net proceeds of sale generated in such Other Offer(s).
 - B. **CAP:** Notwithstanding Para. 2(A) of this Addendum, the Purchase Price shall not exceed \$ _____ (“Cap”).
 - C. **Documentation:** In the event that Other Offers cause an increase in the Purchase Price, Seller shall provide Buyer at time of Seller’s submission of a Counteroffer (See. Para. 4 below) sufficient documentation to justify the Purchase Price increase. Unless otherwise noted here, “Sufficient Documentation” means a copy of the Other Offer(s) submitted with the last names(s) of the buyer(s) on the Other Offer(s) redacted. In addition to Sufficient Documentation, Seller shall submit the following:

 - D. **Multiple Escalations:** Buyer acknowledges that the Escalating Factor of the Purchase Offer and the Escalating Factors of Other Offers may result in multiple escalation and, in some cases, escalations to the Cap.
3. **TERMINATION:** The terms contained herein are for the use and purpose of obtaining a mutually agreeable Purchase Price and shall be deemed satisfied and will terminate upon ratification of a Purchase Agreement for the Property.
4. **DISCLAIMER/ACKNOWLEDGMENT:** Buyer acknowledges and affirms that the Purchase Offer and Escalation Clause have been made of his/her own volition and discretion and notwithstanding Para. 4, Buyer agrees to forever hold harmless the Brokerage(s) and Broker(s) with regard to negotiation of the Purchase Price. In the event Other Offers are presented on the Property, Buyer acknowledges that a copy of the documents constituting the Purchase Offer may be provided to the parties making such Other Offers.

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NEW MEXICO ASSOCIATION OF REALTORS® — 2023
ADDENDUM NO. _____
ESCALATION CLAUSE ADDENDUM



BUYER(S)

Buyers Signature	Printed Name	Offer Date	Time
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Buyers Signature	Printed Name	Offer Date	Time
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Buyers Signature	Printed Name	Offer Date	Time
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Buyers Signature	Printed Name	Offer Date	Time
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⚠ ATTENTION SELLER(S) ⚠

EXECUTION AND ACCEPTANCE OF COUNTEROFFER: In the event that Seller agrees to accept a Purchase Price within the terms of the Purchase Offer and pursuant to this Escalation Clause Addendum, Seller shall submit to Buyer a Counteroffer, (NMAR Form 2111B – Escalation Clause Counteroffer) fully executed by the Seller which shall reflect the Purchase Price adjusted according to the escalation provisions contained herein and include any waiver of the appraisal contingency as contained herein (Para. 3(A) or 3(B)), along with Sufficient Documentation (as defined in Para. 2(C)). Acceptance of the Counteroffer will occur upon counter signature by Buyer, and delivery to Seller of the fully ratified Purchase Agreement. Nothing herein prohibits the Seller from making a counteroffer based on terms different from those offered in Buyer's Purchase Offer and this Escalation Clause Addendum.

SELLER(S) INITIALS _____

DRAFT



ADDENDUM NO. _____
APPRAISAL CONTINGENCY WAIVER ADDENDUM



IMPORTANT - READ ENTIRE ADDENDUM CAREFULLY



THIS ADDENDUM REPLACES THE APPRAISAL CONTINGENCY PROVISIONS OF THE PURCHASE AGREEMENT. IF USING THE NMAR 2104 - PURCHASE AGREEMENT - RESIDENTIAL RESALE AGREEMENT, THIS ADDENDUM REPLACES PARA. 9(D) IN ITS ENTIRETY.

IF BUYER IS OBTAINING AN FHA OR VA LOAN, THE LENDER WILL REQUIRE THE PARTIES TO SIGN AN AMENDATORY/ESCAPE CLAUSE ADDENDUM THAT STATES THAT REGARDLESS OF THE PARTIES AGREEMENT IN THIS ADDENDUM, THE BUYER SHALL HAVE THE RIGHT (THOUGH NOT THE OBLIGATION) TO TERMINATE THE AGREEMENT WITHOUT PENALTY IF THE APPRAISED VALUE IS LESS THAN THE PURCHASE PRICE. THE FHA/VA ADDENDUM WILL SUPERCEDE THIS ADDENDUM.

This Addendum is hereby incorporated into and made part of the Purchase Agreement dated: _____, 20____
 between _____ (“Buyer”)
 and _____ (“Seller”)
 and relating to the following Property:

Address (Street, City, State, Zip Code)

Legal Description

or see metes and bounds legal description attached as Exhibit _____, _____ Count(ies), New Mexico (hereinafter the “Purchase Agreement”).

THE PARTIES AGREE THAT THE APPRAISAL CONTINGENCY IN THE PURCHASE AGREEMENT IS REPLACED IN ITS ENTIRETY AS FOLLOWS:

1. MODIFICATION OF APPRAISAL CONTINGENCY. CHECK ONLY ONE OPTION BELOW.

Option A to be used if Buyer is obtaining a loan. Buyer’s lender will require an appraisal even if Buyer waives the Appraisal Contingency. Seller agrees to allow access to the Property for the appraisal.

OPTION A: BUYER FULLY WAIVES THE APPRAISAL CONTINGENCY



IMPORTANT NOTE: THIS MEANS THAT BUYER AGREES TO PURCHASE THE PROPERTY AT THE PURCHASE PRICE REGARDLESS OF THE AMOUNT FOR WHICH THE PROPERTY APPRAISES.

CASH FUNDS AT CLOSING. If Buyer is obtaining a loan and the appraisal is less than the Purchase Price, then Buyer agrees to pay by the Funding Date in readily available funds any difference between the amount of the loan and the Purchase Price (“Difference”).

if checked, then within two (2) days of Buyer’s receipt of the appraisal, Buyer shall deliver to Seller a copy of the appraisal and proof of funds for the Difference.

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ADDENDUM NO. _____
APPRAISAL CONTINGENCY WAIVER ADDENDUM

Options B through E to be used if Buyer is obtaining a loan or paying cash or the purchase of the Property will be seller-financed. If this is a cash or seller-financed transaction, one of the following options would be selected IF the Buyer is requiring an appraisal and IF the Buyer will be partially waiving the Appraisal Contingency in the Purchase Agreement (Para. 9(D) of the NMAR Form 2104 - Purchase Agreement – Residential Resale). In this event, the Buyer shall select the appraiser.

OPTION B: LIMITED WAIVER OF APPRAISAL CONTINGENCY.

- Buyer shall pay a certain amount over the appraisal up to a “Buyer’s Cap.”
- The “Buyer’s Cap” is the highest Purchase Price that Buyer is willing to pay.
- The “Appraisal Gap” is the amount over the appraisal amount that Buyer is willing to pay.
- The “Ratified Purchase Price” is the new Purchase Price adjusted after the appraisal per this Option B.
- The numbers to be inserted in the blank spaces are indicated under the spaces. ALL SPACES TO BE COMPLETED.

BUYER SHALL PAY THE LESSER OF \$ _____ OVER THE APPRAISED VALUE OR
Appraisal Gap

\$ _____ **WHICHEVER IS LESS.**
Buyer’s Cap

PRICE MODIFICATION ADDENDUM. Within two (2) days of Buyer’s receipt of the appraisal, Buyer shall deliver to Seller:

- A Price Modification Addendum reflecting the Ratified Purchase Price (NMAR Form 2101);
- If the Ratified Purchase Price is less than the Buyer’s Cap, a Copy of the Appraisal; and
- If applicable, Proof of Funds per Paragraph 2(B) below.

Notwithstanding the foregoing, if Buyer delivers the above required documents, this Addendum remains in full force and effect even if the parties fail to execute a Price Modification Addendum as required by this Addendum.

BUYER(S) OR SELLER(S) SUBMITTING _____



ADDENDUM NO. _____
APPRAISAL CONTINGENCY WAIVER ADDENDUM

OPTION C: LIMITED WAIVER OF APPRAISAL CONTINGENCY.

- Buyer shall pay the Purchase Price or a certain amount over the appraisal whichever is greater.
- The “Appraisal Gap” is the amount over the appraisal amount that Buyer is willing to pay.
- The “Ratified Purchase Price” is the new Purchase Price adjusted after the appraisal per this Option C.
- The numbers to be inserted in the blank spaces are indicated under the spaces. **ALL SPACES TO BE COMPLETED.**

**BUYER SHALL PAY THE PURCHASE PRICE IN THE PURCHASE AGREEMENT OR
\$ _____ ABOVE THE APPRAISAL AMOUNT, WHICHEVER SHALL BE GREATER.**
Appraisal Gap

Within two (2) days of Buyer’s receipt of the appraisal, Buyer shall deliver to Seller:

- A Copy of the Appraisal;
- A Price Modification Addendum reflecting the Ratified Purchase Price (NMAR Form 2101); and
- If applicable, Proof of Funds per Paragraph 2(B) below.

Notwithstanding the foregoing, if Buyer delivers the above required documents, this Addendum remains in full force and effect even if the parties fail to execute a Price Modification Addendum as required by this Addendum.

BUYER(S) OR SELLER(S) SUBMITTING _____

DRAFT



ADDENDUM NO. _____
APPRAISAL CONTINGENCY WAIVER ADDENDUM

OPTION D: LIMITED WAIVER OF THE APPRAISAL CONTINGENCY

- This Option allows Buyer to set forth the highest Purchase Price they are willing to pay, provided the Property appraises at or above the indicated amount and provides that Seller is guaranteed to receive no less than the Purchase Price if the appraisal comes in below the indicated amount.
- The “Buyer’s Cap” is the highest Purchase Price that Buyer is willing to pay.
- The “Seller’s Guarantee” is the amount that Seller is guaranteed to receive, even if the appraisal comes in below the Purchase Price.
- The “Appraisal Gap” is the amount over the appraisal amount that Buyer is willing to pay.
- The “Ratified Purchase Price” is the new Purchase Price adjusted after the appraisal per this Option D.
- The numbers to be inserted in the blank spaces are indicated under the spaces. ALL SPACES TO BE COMPLETED.

PURCHASE PRICE: \$ _____

APPRAISAL GAP: \$ _____

(1) IF THE PROPERTY APPRAISES FOR MORE THAN \$ _____
PURCHASE PRICE MINUS THE APPRAISAL GAP

THEN BUYER SHALL PAY THE LESSER OF:

\$ _____ OVER THE APPRAISED VALUE
APPRAISAL GAP

- OR -

\$ _____
BUYER'S CAP

(2) IF PROPERTY APPRAISES FOR LESS THAN \$ _____
PURCHASE PRICE MINUS THE APPRAISAL GAP

THEN BUYER SHALL PAY THE GREATER OF:

\$ _____ OVER THE APPRAISED VALUE
APPRAISAL GAP

- OR -

\$ _____
SELLER'S GUARANTEE



IMPORTANT NOTE: UNDER THIS OPTION D, BUYER WILL BE REQUIRED TO BRING TO CLOSING THE DIFFERENCE IN CASH BETWEEN THE APPRAISED AMOUNT AND SELLER'S GUARANTEE. DEPENDING ON THE APPRAISAL AMOUNT, THIS COULD BE A SIGNIFICANT AMOUNT OF MONEY.

PRICE MODIFICATION ADDENDUM. Within two (2) days of Buyer's receipt of the appraisal, Buyer shall deliver to Seller:

- A Price Modification Addendum reflecting the Ratified Purchase Price (NMAR Form 2101);
- If the Ratified Purchase Price is less than the Buyer's Cap, a Copy of the Appraisal;
- If applicable, Proof of Funds per Paragraph 2(B) below.

Notwithstanding the foregoing, if Buyer delivers the above required documents, this Addendum remains in full force and effect even if the parties fail to execute a Price Modification Addendum as required by this Addendum.



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APPRAISAL CONTINGENCY WAIVER ADDENDUM

OPTION E: LIMITED WAIVER WITH OPTION TO RE-NEGOTIATE PURCHASE PRICE

- This Option allows Buyer to set forth the highest Purchase Price they are willing to pay, provided the Property appraises above the indicated amount and allows the parties to re-negotiate a Purchase Price if the Property appraises below the indicated amount.
- The “Buyer’s Cap” is the highest Purchase Price that Buyer is willing to pay.
- The “Appraisal Gap” is the amount over the appraisal amount that Buyer is willing to pay.
- The “Ratified Purchase Price” is the new Purchase Price adjusted after the appraisal per this Option E.
- The numbers to be inserted in the blank spaces are indicated under the spaces. ALL SPACES TO BE COMPLETED.

PURCHASE PRICE: \$ _____

APPRAISAL GAP: \$ _____

(1) IF THE PROPERTY APPRAISES FOR **MORE THAN** \$ _____
PURCHASE PRICE MINUS THE APPRAISAL GAP
 THEN BUYER SHALL PAY THE **LESSER OF** \$ _____ **OVER THE APPRAISED VALUE OR**
APPRAISAL GAP
 \$ _____
BUYER’S CAP

Within two (2) days of Buyer’s receipt of the appraisal, Buyer shall deliver to Seller:

- A Price Modification Addendum reflecting the Ratified Purchase Price (NMAR Form 2101);
- If the Ratified Purchase Price is less than the Buyer’s Cap, a Copy of the appraisal; and;
- If applicable, Proof of Funds per Paragraph 2(B) below.

Notwithstanding the foregoing, if Buyer delivers the foregoing, this Addendum remains in full force and effect even if the parties fail to execute a Price Modification Addendum as required by this Addendum.

(2) IF THE PROPERTY APPRAISES FOR LESS THAN \$ _____
PURCHASE PRICE MINUS THE APPRAISAL GAP

BUYER SHALL DELIVER A COPY OF THE APPRAISAL TO SELLER WITHIN TWO (2) DAYS OF BUYER’S RECEIPT OF THE APPRAISAL AND ONE OF THE FOLLOWING SHALL OCCUR WITHIN FIVE (5) DAYS OF SELLER’S RECEIPT OF THE APPRAISAL.

BUYER SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO PURCHASE THE PROPERTY FOR THE PURCHASE PRICE.

-----OR-----

THE PARTIES MAY RE-NEGOTIATE A PURCHASE PRICE.

If the Buyer elects to purchase the Property for the Purchase Price or the parties renegotiate a Purchase Price, the parties shall fully execute a Price Modification Addendum reflecting the **RATIFIED PURCHASE PRICE** (NMAR FORM 2101) and if applicable, Proof of Funds per Paragraph 2(B) below. **Notwithstanding the foregoing, if Buyer exercises their right to purchase for the Purchase Price and delivers the above required documents, this Addendum remains in full force and effect even if Seller fails to execute a Price Modification Addendum as required by this Addendum.**

If Buyer does not exercise their option to purchase for the Purchase Price AND the parties fail to execute a Price Modification Addendum within FIVE (5) days of Seller’s receipt of the appraisal, then this Agreement SHALL AUTOMATICALLY TERMINATE and Earnest Money, if delivered, shall be refunded to Buyer.

BUYER(S) OR SELLER(S) SUBMITTING _____



ADDENDUM NO. _____
APPRAISAL CONTINGENCY WAIVER ADDENDUM

2. **CASH FUNDS AT CLOSING.** If Buyer is securing a loan to purchase the Property and Buyer has agreed to pay more than the appraised value under any of the foregoing options, Buyer agrees as follows:
- A. To pay by the Funding Date in readily available funds any difference between the amount of the loan and the final Purchase Price, as modified by this Addendum (“Difference”); and
 - B. if checked, to provide Seller with proof of funds for the Difference.
 - i. If Option B, C, D or E(1) was chosen, within three (3) days of Buyer providing Seller with a copy of the appraisal;
 - ii. If Option E(2) was chosen, within three (3) days of the parties’ full execution of a Price Modification Addendum.

3. **OTHER CHANGES:**

DISCLAIMER/ACKNOWLEDGMENT: Buyer has read and understands the terms of this Addendum and acknowledges that neither the Broker(s), nor the Brokerage(s) can guarantee or control the amount for which the Property will appraise. Buyer acknowledges and affirms that this waiver of any or all of the Appraisal Contingency, has been made of their own volition and discretion and Buyer agrees to forever hold harmless the Broker(s) and Brokerages(s) with regard to this waiver.

BUYER(S)

Buyer Signature	Printed Name	Date	Time
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Buyer Signature	Printed Name	Date	Time
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DISCLAIMER/ACKNOWLEDGMENT: Seller has read and understands the terms of this Addendum and acknowledges that neither the Broker(s), nor the Brokerage(s) can guarantee or control the amount for which the Property will appraise. Seller acknowledges and affirms that the Option chosen in this Addendum and if applicable, the amount of the Seller’s Floor has been made of their own volition and discretion and Seller agrees to forever hold harmless the Broker(s) and Brokerage(s) with regard to the Option chosen and the amount of the Seller’s Floor.

SELLER(S)

Seller Signature	Printed Name	Date	Time
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Seller Signature	Printed Name	Date	Time
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BUYER'S SALE CONTINGENCY ADDENDUM



INTENDED PURPOSE. This form is intended to be used under the following circumstances: (1) the Buyer is making an offer on the Seller's property; and (2) the Buyer is attempting to sell his/her existing property; 3) the Buyer is making his offer to purchase Seller's property subject to the sale, closing and funding of his property; and 4) the Seller agrees to discontinue MLS marketing of his property once the Buyer's property goes under contract.

As used in this agreement to describe the contingency, the term "satisfies" and any variation thereof means that the Buyer's property has closed and funded and the term "waives" and any variation thereof means that it is no longer necessary for the Buyer to sell his property in order to purchase the Seller's property. In other words, if the Buyer "waives" this Contingency, the Buyer is no longer making the purchase of the Seller's property contingent on the Buyer first selling his own property.

The following agreement is an Addendum to the Purchase Agreement dated _____ between _____ ("Buyer") and _____ ("Seller") relating to the following real estate: _____ ("Subject Property"), hereinafter referred to as the "Purchase Agreement".

- 1. CONTINGENCY: The Purchase Agreement is subject to the sale, closing and funding of Buyer's property located at: _____ ("Buyer's Property").
2. MARKETING PERIOD AND CONTINGENCY DEADLINE.
A. MARKETING CONTINUES. Seller shall have the right to offer the Subject Property for sale and to consider additional offers until Buyer delivers written notice to Seller that Buyer has entered into a contract for the sale of Buyer's Property ("Marketing Period"). Buyer may notify Seller by (Check all that apply) [] email [] text [] hand-delivery [] other _____ that Buyer has entered into a contract for the sales of Buyer's Property. With the Notification, Buyer [] SHALL [] SHALL NOT attach a copy of the purchase agreement. Notwithstanding the foregoing, if the Property was marketed through the MLS, the MLS listing is subject to MLS Rules.
B. CONTINGENCY DEADLINE. In the event Seller receives another acceptable offer to purchase the Subject Property during the Marketing Period, Seller shall deliver written notification (Notification to Satisfy or Waive Contingency, Page 4 of this Agreement) to the Buyer that this Contingency must be satisfied or waived within _____ hours of receipt of such notification ("Contingency Deadline"). If Buyer does not satisfy or waive this Contingency by the Contingency Deadline, this Purchase Agreement shall terminate and any Earnest Money [] will [] will not be refunded to Buyer. If Contingency Deadline falls on a weekend or legal holiday, the Contingency Deadline shall NOT be extended to the next business day.
3. TERMINATION OF MARKETING PERIOD. Once Seller receives notice from Buyer that Buyer has entered into a contract for the sale of Buyer's Property, the Marketing Period ends. Nothing herein prohibits Seller from accepting Back-Up Contracts on the Subject Property once the Marketing Period ends. The Purchase Agreement shall remain contingent upon the closing and funding of Buyer's Property.
4. TERMINATION OF CONTRACT ON BUYER'S PROPERTY. In the event Buyer has entered into a contract for the sale of Buyer's Property and that contract subsequently terminates for any reason, Buyer must notify Seller of such termination within _____ days of such termination. In this event, Buyer shall have the option of waiving the contingency; however, if Buyer is unwilling or unable to waive the contingency at the time he provides notice to Seller, then Seller, in his sole discretion, may terminate the Purchase Agreement.
A. NOTICE. If Seller elects to terminate, Seller shall deliver written notice to Buyer within _____ days of receiving Buyer's notice of the termination of the contract on Buyer's Property and Earnest Money will be refunded to Buyer. If Seller fails to timely notify Buyer of Seller's intent to terminate, Seller's right to terminate shall be deemed waived.

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BUYER'S SALE CONTINGENCY ADDENDUM



B. **MARKETING RESUMES.** If Seller elects *not* to terminate the Purchase Agreement or *waives* his right to terminate the Purchase Agreement by failing to timely respond to Buyer's notice (Para. 4(A)), Seller may resume marketing of the Subject Property until such time as Buyer notifies Seller that Buyer has entered into another contract for the sale of Buyer's Property ("Subsequent Marketing Period"). In the event Seller receives another acceptable offer to purchase the Subject Property during the Subsequent Marketing Period, Seller shall deliver written notification (Notification to Satisfy or Waive Contingency, Page 4 of this Agreement) to the Buyer that this Contingency must be satisfied or waived by the Contingency Deadline (Para. 2(B)). If Buyer does not satisfy or waive this Contingency by the Contingency Deadline, this Purchase Agreement shall terminate and any Earnest Money shall be distributed as provided in Para. 2(B).

5. **TIME FOR SATISFACTION OR WAIVER OF CONTINGENCY.** Without any notice or demand, Buyer shall notify Seller in writing on or before _____ ("Contingency Date") that this Contingency has been satisfied or waived. If Buyer does not satisfy or waive this Contingency by the Contingency Date, this Purchase Agreement shall terminate and any Earnest Money will will not be refunded to Buyer. NOTE: THE FACT THE BUYER HAS ENTERED INTO A CONTRACT FOR THE SALE OF BUYER'S PROPERTY IS NEITHER A SATISFACTION, NOR A WAIVER OF THE CONTINGENCY (SEE DEFINITIONS OF "SATISFACTION" AND "WAIVER" IN THE INTRODUCTORY PARAGRAPH) AND THIS PARAGRAPH SHALL APPLY EVEN IF BUYER HAS ENTERED INTO A CONTRACT FOR THE SALE OF BUYER'S PROPERTY.

6. **BUYER REPRESENTATIONS:**

- A. Buyer's Property is for sale.
 - i. Buyer's Property is listed with _____ (Broker's name) of _____ Brokerage.
 - ii. Buyer's Property is is not currently listed with a MLS. If currently listed in the MLS, the MLS listing number is _____.
 - iii. Buyer's Property has been on the market since _____.
- B. Buyer's Property is not yet for sale.
 - i. Buyer will will not list Buyer's Property with a licensed real estate broker within _____ days from Date of Acceptance. If Buyer will be listing Buyer's Property with a licensed real estate broker, Buyer will deliver proof of this listing to Seller within _____ days from Date of Acceptance. If Buyer fails to deliver proof of said listing, the Purchase Agreement shall terminate and any Earnest Money deposit will will not be refunded to Buyer.
 - ii. Buyer will will not list Property with a MLS. If Buyer will be listing Buyer's Property with a MLS, Buyer will do so within _____ days of Date of Acceptance.

7. **NOTICES:**

- A. Any notices made by Buyer under this Contingency Agreement shall be made to (check applicable box)
 - Seller's Broker Seller Other _____
 Notices shall be delivered in accordance with the Purchase Agreement.
- B. Any notices made by Seller under this Contingency Agreement shall be made to (check applicable box)
 - Buyer's Broker Buyer Other _____
 Notices shall be delivered in accordance with the Purchase Agreement.
- C. In the event there are multiple Buyers/Sellers on the Purchase Agreement, each Buyer/Seller shall be considered the agent of the other Buyer(s)/Seller(s) for purposes of giving and receiving notice. Written notice to ANY of said Buyers/Sellers shall be considered written notice to ALL Buyers/Sellers.

8. **WAIVER OF CONTINGENCY:**

- A. If Buyer elects to waive this Contingency for the sale of the Buyer's Property and is thereafter unable to close and fund on the sale of the Subject Property due to the failure to close and fund on the sale of Buyer's Property, any Earnest Money deposit will NOT be refunded to Buyer; it will be paid to the Seller. Further, Seller reserves any rights to other damages to which Seller may be entitled as a result of Buyer's financial inability to fulfill the terms and conditions of the Purchase Agreement.
- B. **Seller's Right to Approve (Initial Below if applicable).**
 Notwithstanding the foregoing, Buyer shall provide to Seller, at the time of waiver of this Contingency, evidence satisfactory to Seller that Buyer is financially qualified to purchase the Subject Property. Buyer's waiver of this Contingency is conditioned on Seller's approval of Buyer's financial qualifications. Seller will inform Buyer of Seller's approval or disapproval within _____ hours after receipt of the evidence referred to above. If Seller



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disapproves of Buyer's financial qualifications, the Purchase Agreement will terminate and any Earnest Money will be returned to Buyer. If Seller fails to provide notice of disapproval within the time specified, Seller is deemed to have approved of Buyer's financial qualifications and waives his right to terminate the Purchase Agreement based thereon. Seller may not unreasonably withhold approval.

9. TIME PERIODS FOR PERFORMANCE.

- A. If a TOM Fee is provided for in the Purchase Agreement, the TOM Fee shall be delivered the date that the Buyer delivers written notice that the Buyer's Property has gone under contract for sale or the date Buyer delivers notice that this Contingency is waived, whichever should occur first.
- B. If Earnest Money is provided for in the Purchase Agreement, Earnest Money shall be deposited:
 - as specified in the Purchase Agreement;
 - the date that the Buyer delivers written notice that the Buyer's Property has gone under contract for sale or the date Buyer delivers notice that this Contingency is waived, which ever should occur first; or
 - other _____.
- C. Time periods in the Purchase Agreement for performance of all other obligations shall begin:
 - as specified in the Purchase Agreement;
 - the date that the Buyer delivers written notice that the Buyer's Property has gone under contract for sale or the date Buyer delivers notice that this Contingency is waived, which ever should occur first; or
 - other _____.

10. CONFLICT. If there is any conflict between the provisions of the Purchase Agreement and this Addendum, the provision of this Addendum will control. The remaining provision of the Purchase Agreement will remain in effect.

BUYER(S)

Buyer Signature	Print Name	Date	Time
Buyer Signature	Print Name	Date	Time

SELLER(S)

Seller Signature	Print Name	Date	Time
Seller Signature	Print Name	Date	Time



BUYER’S SALE CONTINGENCY ADDENDUM



SELLER(S) NOTIFICATION TO SATISFY OR WAIVE CONTINGENCY

Buyer is hereby notified that Seller has received an acceptable offer to purchase the Subject Property from another party. UNDER THE TERMS OF THIS BUYER SALE CONTINGENCY, BUYER HAS UNTIL _____ (date) at _____(time) am pm TO SATISFY OR WAIVE THE CONTINGENCY ("CONTINGENCY DEADLINE"). IF BUYER FAILS TO SATISFY OR WAIVE THIS CONTINGENCY WITHIN THE ABOVE PERIOD OF TIME, THE PURCHASE AGREEMENT SHALL TERMINATE, AND THE EARNEST MONEY SHALL BE DISTRIBUTED AS PROVIDED IN THIS CONTINGENCY AGREEMENT.

SELLER(S)

Seller Signature _____ Print Name _____ Date _____ Time _____

Seller Signature _____ Print Name _____ Date _____ Time _____

The undersigned hereby states that the above Notification to Satisfy or Waive Contingency was delivered to _____ at _____ on _____, at _____ am pm

Signature _____

BUYER NOTIFICATION OF SATISFACTION OR WAIVER OF CONTINGENCY

Buyer hereby notifies Seller that he (check applicable box) WAIVES SATISFIES this Contingency. If Buyer is WAIVING this Contingency and subsequently is unable to complete this transaction due to the failure to sell Buyer's Property, the Earnest Money deposit will NOT be refunded to Buyer; it will be paid to the Seller. Seller reserves all rights to other damages to which Seller may be entitled as a result of Buyer's financial inability to fulfill the terms and conditions of the Purchase Agreement. Additionally, if Buyer is waiving this Contingency, Seller may have the right to review and approve Buyer's financial qualifications as provided for in Paragraph 8B. See definitions of "satisfaction" and "waiver" in the introductory paragraph.

BUYER(S)

Buyer Signature _____ Print Name _____ Date _____ Time _____

Buyer Signature _____ Print Name _____ Date _____ Time _____

ACKNOWLEDGED BY SELLER(S):

Seller Signature _____ Print Name _____ Date _____ Time _____

Seller Signature _____ Print Name _____ Date _____ Time _____



**NEW MEXICO ASSOCIATION OF REALTORS® — 2023
ADDENDUM NO. _____
BUYER'S SALE CONTINGENCY ADDENDUM**



APPROVAL OF BUYER'S FINANCIAL QUALIFICATIONS (IF APPLICABLE)

Based on the documents provided by Buyer, Seller approves of Buyer's financial qualifications as required under Paragraph 8B. **If Buyer is unable to complete this transaction due to the failure to close and fund on the sale of Buyer's Property, the Earnest Money deposit will NOT be refunded to Buyer; it will be paid to the Seller. Seller reserves all rights to other damages to which Seller may be entitled as a result of Buyer's financial inability to fulfill the terms and conditions of the Purchase Agreement.**

SELLER(S)

Seller Signature	Print Name	Date	Time
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Seller Signature	Print Name	Date	Time
------------------	------------	------	------

ACKNOWLEDGED BY BUYER:

Buyer Signature	Date	Time
-----------------	------	------

Buyer Signature	Date	Time
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BUYER'S BROKER(S)

Buyer's Broker Name	Buyer's Broker's Qualifying Broker's Name and NMREC License No.
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Buyer's Brokerage Firm	Office Phone	Cell Phone	Email Address
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Buyer's Brokerage Address	City	State	Zip Code	Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®
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SELLER'S BROKER(S)

Seller's Broker Name	Seller's Broker's Qualifying Broker's Name and NMREC License No.
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Seller's Brokerage Firm	Office Phone	Cell Phone	Email Address
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Seller's Brokerage Address	City	State	Zip Code	Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®
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**NEW MEXICO ASSOCIATION OF REALTORS®
BUYER'S CLOSING AND FUNDING CONTINGENCY ADDENDUM - 2023**

This Addendum is part of the Residential Purchase Agreement ("Purchase Agreement") dated _____, between _____ ("Buyer") and _____ ("Seller") relating to the following property: _____

Address _____ City _____ State _____ Zip _____

Legal Description _____
Or see metes and bounds description attached as Exhibit _____, _____ County, New Mexico ("Property").

As used in this agreement, the term "satisfies" and any variation thereof means that the Buyer's property has closed and funded and the term "waives" and any variation thereof means that it is no longer necessary for the Buyer to sell his property in order to purchase the Seller's property.

1. BUYER'S REPRESENTATION. Buyer represents that Buyer has accepted an offer for the sale of Buyer's property located at _____ ("Buyer's Property").
A. Name of title/escrow company used for closing of Buyer's Property: _____
B. Date of Closing on Buyer's Property: _____
C. Buyer will will not furnish to Seller a copy of an fully executed purchase agreement for the sale of Buyer's Property. If applicable, to be furnished, no later than _____.

2. CONTINGENCY. The Agreement is contingent upon the closing and funding of Buyer's Property on or before _____ ("Contingency Deadline"). If this Contingency is not satisfied or waived by Buyer by the Contingency Deadline, the Agreement shall terminate automatically, and the Earnest Money shall be refunded to Buyer.

3. TERMINATION OF CONTRACT FOR SALE OF BUYER'S PROPERTY. If the contract for the sale of Buyer's Property terminates for any reason, Buyer shall deliver notice to Seller within _____ days of Buyer receiving notice of the termination of the contract for sale of Buyer's Property ("Notification Date") and provide to Seller at that time evidence of such termination. In this event, the following options are available:

A. BUYER'S OPTIONS:

i Proceed with this Agreement by waiving this Contingency. **IF BUYER WAIVES THIS CONTINGENCY AND FAILS TO CLOSE ON THE PROPERTY FOR FINANCIAL REASONS, BUYER SHALL BE IN DEFAULT OF THE AGREEMENT.** If Buyer elects to waive this Contingency, Buyer shall Shall not provide Seller with the following by the Notification Date:

- a) If the Buyer is obtaining a loan on the Property, written documentation from Buyer's Lender that Buyer can qualify for a loan on the Property without first selling and closing on Buyer's Property;
- b) If the Buyer is paying cash or Seller is providing seller financing, evidence of Buyer's financial ability to close on the Property by the Settlement/Signing Date without first selling and closing on Buyer's Property, as determined in Seller's sole discretion; or

ii Terminate this Agreement immediately; Earnest Money will will not be refunded to Buyer.

B. SELLER'S OPTIONS: If Buyer waives this Contingency and by the Notification Date, Buyer is unable to provide Seller with sufficient evidence of Buyer's financial ability to close on the Property, Seller may elect to terminate the Agreement. If Seller elects to terminate, Seller shall deliver written notice to Buyer within _____ days of the Notification Date and Earnest Money will will not be refunded to Buyer. If Seller fails to timely notify Buyer of Seller's intent to terminate, Seller shall be deemed to have approved Buyer's financials and accepted Buyer's waiver of this Contingency.

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**NEW MEXICO ASSOCIATION OF REALTORS®
BUYER'S CLOSING AND FUNDING CONTINGENCY ADDENDUM – 2023**

C. OTHER OPTION: The parties may agree to remain under contract on the Property with the Agreement being amended as follows: This Buyer's Closing and Funding Contingency Addendum may be declared null and void (which means this Addendum shall have no legal effect or validity) and the parties shall further amend the Agreement by entering into a Buyer's Sale Contingency, see NMAR Form 2503 - Buyer's Sale Contingency Addendum.

BUYER SIGNATURE

Buyer Signature Time _____ Date _____

Buyer Signature Time _____ Date _____

SELLER SIGNATURE

Seller Signature Time _____ Date _____

Seller Signature Time _____ Date _____

BUYER'S NOTIFICATION OF SATISFACTION OR WAIVER OF CONTINGENCY

Buyer hereby notifies Seller that Buyer (check applicable box) WAIVES SATISFIES this Contingency. **If Buyer WAIVES this Contingency and subsequently is unable to fulfill the terms and conditions of the Agreement for financial reasons, the Earnest Money will NOT be refunded to Buyer; it will be paid to the Seller and Seller reserves all rights to pursue additional damages to which Seller may be entitled as a result of Buyer's financial inability to fulfill the terms and conditions of the Agreement.**

Buyer Signature Time _____ Date _____

Buyer Signature Time _____ Date _____

Acknowledged by Seller:

Seller Signature Time _____ Date _____

Seller Signature Time _____ Date _____

PER PARA. 3(C) ABOVE, THE PARTIES DECLARE THIS ADDENDUM TO BE NULL AND VOID.

Buyer Signature Time _____ Date _____

Buyer Signature Time _____ Date _____

Seller Signature Time _____ Date _____

Seller Signature Time _____ Date _____



NEW MEXICO ASSOCIATION OF REALTORS® — 2023
ADDENDUM NO. _____
ADDENDUM FOR BACK—UP PURCHASE AGREEMENT



⚠ ATTENTION BUYER AND SELLER ⚠

This “Back-Up” Purchase Agreement obligates Seller to sell and Buyer to buy *IF* Seller notifies Buyer that ALL Purchase Agreement(s) previously accepted by Seller have terminated by the date set forth in Paragraph 2.

This Addendum is part of the Residential Commercial Vacant Land Farm and Ranch Purchase Agreement dated _____, 20____ between _____ ("Buyer") and _____ ("Seller") and relating to the following Property:

Address (Street, City, State, Zip Code) _____

Legal Description or see metes and bounds description attached as Exhibit _____, _____ Count(ies), New Mexico and is hereinafter referred to as “Back-Up Purchase Agreement”.

- 1. CONTINGENCY. Performance under this Back-Up Purchase Agreement is contingent on termination of the Primary Purchase Agreement and ALL Prior Back-Up Purchase Agreements.** Seller, in his sole discretion, shall determine if the Primary Purchase Agreement and ALL Prior Back-Up Purchase Agreements have terminated. Buyer acknowledges and Seller affirms that Seller has entered into the following: (Check “B” if applicable)
 - A. A purchase agreement with another buyer to sell the Property (“Primary Purchase Agreement”);
 - B. In addition to the Primary Purchase Agreement, Seller has entered into one or more Back-Up Purchase Agreements with other buyer(s).
- 2. NOTICE.** Seller shall notify Buyer immediately of the termination of the Primary Purchase Agreement and any Prior Back-Up Purchase Agreements (See Notification on Page 2). This Back-Up Purchase Agreement does not become the Primary Purchase Agreement until and unless Seller has notified Buyer that the Primary Purchase Agreement and ALL Prior Back-Up Purchase Agreement(s) have terminated. Notwithstanding any other provision of this Back-Up Purchase Agreement, including this Addendum, if Seller does not provide written notification to Buyer on or before _____, 20____ that the Primary Purchase Agreement and ALL Prior Back-Up Purchase Agreements have terminated, then this Back-Up Purchase Agreement shall automatically terminate. **SELLER SHALL MOVE BACK-UP PURCHASE AGREEMENTS INTO PRIMARY POSITION IN THE ORDER IN WHICH THEY WERE ACCEPTED BY SELLER.**
- 3. DATE OF ACCEPTANCE/DATE OF “UNDER CONTRACT”.** Date of Acceptance is the date on which this Back-Up Purchase Agreement is fully executed and delivered, which means the parties are “Under Contract” as of the Date of Acceptance; HOWEVER, the parties are NOT obligated to perform on this Back-Up Purchase Agreement until the time frame set-forth in Paragraph 4.
- 4. TIMEFRAME FOR PERFORMANCE.** Neither party is obligated to perform on this Back-Up Purchase Agreement until and unless Buyer receives written notice from Seller that the Primary Purchase Agreement and ALL Prior Back-Up Purchase Agreements have terminated. This means that where a date for performances in this Back-Up Purchase Agreement states “X No. of Days from Date of Acceptance”, the date for performance shall now be “X No. of Days from the Date that Seller Notifies Buyer that Buyer’s Back-Up Purchase Agreement is now the Primary Purchase Agreement.” NOTE: Because of this, there CANNOT be any specific calendar date deadlines (e.g. March 1st) in this Back-Up Purchase Agreement; all dates in this Back-Up Purchase Agreement **MUST BE** expressed in number of days (e.g. four (4) days).

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**NEW MEXICO ASSOCIATION OF REALTORS® — 2023
ADDENDUM NO. _____
ADDENDUM FOR BACK—UP PURCHASE AGREEMENT**



5. NOTIFICATION TO BUYER.

- A. Prior Back-Up Purchase Agreements.** Seller shall notify Buyer that Prior Back-Up Purchase Agreements have terminated by (check all that apply) Email Text Hand-Delivery Other _____.
- B. Primary Purchase Agreement.** Seller shall notify Buyer that Buyer’s Purchase Agreement is the Primary Purchase Agreement by sending Buyer the Notification below.

⚠ ATTENTION BUYER AND SELLER ⚠

BY SIGNATURE HERETO, SELLER AFFIRMS

THIS BACK-UP PURCHASE AGREEMENT IS BACK-UP PURCHASE AGREEMENT ADDENDUM NO. _____

- This section to be completed by BUYER, but Seller MUST review for accuracy before signing this Addendum. If number is incorrect, Seller should NOT sign this Addendum. Seller may submit a counteroffer with the correct number and/or notify Buyer of the correct number, so that Buyer may submit a corrected Back-Up Purchase Agreement Addendum.
- For purposes of determining this number, only count the number of Prior Back-Up Purchase Agreements the Seller has accepted; do NOT count the Primary Purchase Agreement. For example, if Buyer is the first Back-Up Purchase Agreement behind the Primary Purchase Agreement, then this is Back-Up Purchase Agreement Addendum No. (1); if Seller has already entered into one Back-Up Purchase Agreement before this one, then this is Back-Up Purchase Agreement Addendum No. (2).

BUYER(S)

Buyer Signature	Printed Name	Date	Time
Buyer Signature	Printed Name	Date	Time

SELLER(S)

Seller Signature	Printed Name	Date	Time
Seller Signature	Printed Name	Date	Time

**SELLER’S NOTIFICATION TO BUYER THAT BUYER’S
PURCHASE AGREEMENT IS NOW THE PRIMARY PURCHASE AGREEMENT**

Seller Signature	Printed Name	Date	Time
Seller Signature	Printed Name	Date	Time
Buyer Signature	Printed Name	Date	Time
Buyer Signature	Printed Name	Date	Time



**NEW MEXICO ASSOCIATION OF REALTORS® — 2023
NOTIFICATION OF MULTIPLE OFFERS**

1. BUYER'S OFFER TO PURCHASE. _____
 _____ ("Buyer") has submitted an Offer to Purchase to
 _____ ("Seller")
 dated _____, _____ with respect to the Property described in paragraph 2 ("Original Offer").

2. PROPERTY.

 Address (Street, City, State, Zip Code)

 Legal Description
 or see metes & bounds description attached as Exhibit _____, _____ County, New Mexico.

3. MULTIPLE OFFERS. Seller has received multiple offers on the Property and before determining to accept or reject any one of those offers, Seller gives Buyer the opportunity to submit the following:
 A. An offer setting forth Buyer's Highest and Best terms; and/or
 B. An offer based on the following terms:

DRAFT



THIS NOTIFICATION OF MULTIPLE OFFERS DOES NOT CONSTITUTE AN OFFER BY SELLER TO SELL ON THE TERMS SET FORTH ABOVE. IF BUYER WISHES TO MAKE ANY CHANGES TO BUYER'S ORIGINAL OFFER (OTHER THAN A CHANGE TO THE EXPIRATION DATE, AS EXPLAINED BELOW) BUYER MUST SUBMIT A NEW OFFER.

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**NEW MEXICO ASSOCIATION OF REALTORS® — 2023
NOTIFICATION OF MULTIPLE OFFERS**



4. SELLER'S OPTIONS IN RESPONSE TO BUYER.

A. If New Offer Submitted.

- i. Accept.** Seller may accept Buyer's New Offer if the Expiration Date has not passed and Buyer has not revoked his/her New Offer; or
- ii. Reject.** Seller may reject Buyer's New Offer. If Seller rejects Buyer's New Offer, Seller should mark the "Rejects" Box on the Purchase Agreement. Failure of Seller to accept Buyer's New Offer by the Expiration Date, constitutes a rejection of the New Offer; or
- iii. Counter.** Seller may counter Buyer's New Offer (Counteroffer - NMAR Form 5102). **IF COUNTERING, SELLER SHOULD COUNTER ONLY ONE OFFER.**

B. If Original Offer Retained (No New Offer Submitted).

- i. Accept.** Seller may accept Buyer's Original Offer, if the Expiration Date has not passed and Buyer has not revoked his/her Original Offer. If the Expiration Date in the Original Offer has passed, and Seller wishes to accept Buyer's Original Offer, Buyer must agree to execute an Amendment/Addendum extending the Expiration Date of the Original Offer. BOTH the Original Offer and the Amendment/Addendum must be fully executed.
- ii. Reject.** Seller may reject Buyer's Original Offer. If Seller rejects Buyer's Original Offer, Seller should mark the "Rejects" Box on the Purchase Agreement. Failure of Seller to accept Buyer's Original Offer by the Expiration Date, constitutes a rejection of the Original Offer; or
- iii. Counter.** Seller may counter Buyer's Original Offer (Counteroffer - NMAR Form 5102). If Seller submits a Counteroffer, Seller should mark the "Rejects and Submits a Counteroffer" Box on the Purchase Agreement and sign **ONLY** the Counteroffer. Seller should **NOT** sign the Amendment/Addendum. **IF COUNTERING, SELLER SHOULD COUNTER ONLY ONE OFFER.**

5. TIME IS OF THE ESSENCE. Seller will not consider any new offers made later than _____ ,
at _____ AM PM Mountain Time.

SELLER

Seller Signature	Print Name	Date	Time
Seller Signature	Print Name	Date	Time