

ANATOMY OF A PURCHASE CONTRACT

4

CE

CORE
ELECTIVE



MESA
Real Estate Institute, LLC
New Mexico

In addition to the 2024, 2025, and 2026 Core Courses, MESA REI offers the following:

NEWER:

On-Demand HOAs, COAs, PIDs, and SADs – 4 CE Core Elective

On-Demand Real Estate Success Across Multi-Generations: Leveraging Differences and Strengths
- 2 CE Elective

What the Bleep Do We Do Now – 4 CE Elective

Fair Housing and History of Discrimination – 4 CE Elective

Working with Buyers and Sellers in the New Era – 4 CE Core Elective

Four Letter Words: HOAs, COAs, PIDs, and SADs – 4 CE Core Elective

The Code Meets the Rules – 4 CE Ethics

RPM – Investment Properties – 3 CE Property Management and Core Elective

CORE ELECTIVES:

A Blunt Conversation About Marijuana – 4 CE

Anatomy of a Listing Contract – 4 CE

Anatomy of a Purchase Contract – 4 CE

Broker Beware: Protect Your Real Estate License – 4 CE

Clear the Confusion: Offers (Counters, Multiples, Contingencies, etc.) – 4 CE

Disclose, Disclose, Disclose (unless you're *not* supposed to) – 4 CE

Highest And Best Offers: An Escalating Concern – 2 CE

Inspections, ORR's & Repairs, Oh My! – 2 CE

Intro to Seller Financing – 4 CE

NMAR Forms Update - 4 CE

NMAR's Many Miscellaneous Forms – 4 CE

One Thing Leads to Another – The PA Contingencies Explained - 3 CE

QB Refresher Course 6 CE

Ready, Set, Go! Broker Duties and Other Required Disclosures – 2 CE

Triple D: Deadlines, Defaults, and Definitions – 3 CE

Yes, Your Honor, I Did Disclose – 4 CE

Understanding And Using NMAR Forms – 8 CE

ETHICS ELECTIVES:

Handling Multiple Offers Ethically and Effectively – 4 CE

NAR Code of Ethics & Enforcement – 4 CE

PROPERTY MANAGEMENT CORE ELECTIVES AND ELECTIVES:

RPM – Brokerage Operations 4 CE Core Elective

RPM – Case Studies 3 CE Core Elective

RPM – Going to Court 3 CE Core Elective

RPM – Leasing and Management 6 CE Core Elective

UORRA – 6 CE Core Elective

ON DEMAND CLASSES:

NMREC Meeting Replays (CE varies by month) - Elective
Closing On Time is Possible - 3 CE Elective
Pixels, Properties and People: Navigating AI in Real Estate - 2 CE Elective
Business Ethics in Real Estate - 4 CE Ethics
Handling Multiple Offers Ethically and Effectively - 4 CE Ethics
Triple D: Deadlines, Defaults and Definitions – 3 CE Core Elective
Qualifying Broker Refresher Course – 6 CE (QB Elective) (AB Core Elective)

BUY 3 CLASSES AND GET 1 FREE:

Register for three classes at the same time and get your 4th class on us! Your free class must be of equal or lesser value. Does not include bundled courses. Your free class must be used within six months of payment. Sign up for three classes and give us a call. We can register you for your 4th class or issue a coupon for a future class.

ASSOCIATE BROKER BUNDLE:

36 hours of CE credit for \$420.00. This bundle includes 3 Core Courses, Ethics, Core Electives, and Electives.

QUALIFYING BROKER BUNDLE:

42 hours of CE credit for \$495.00. This bundle includes 3 Core Courses, Ethics, Core Electives, Electives, QB Refresher, and NMREC Meeting Replay.

REFER A FRIEND:

Refer a friend and receive 50% off your next CE Course with MESA! Your 50% off code will apply to regularly priced courses, not to bundled courses or special bundles.

See our course schedule at mesarei.com or call us at 505.348.3381.
Updated as of February 2026.



MESA
Real Estate Institute, LLC
New Mexico



NEW MEXICO ASSOCIATION OF REALTORS® — 2026

INFORMATION SHEET –

INDEPENDENT CONSIDERATION



REASON FOR INDEPENDENT CONSIDERATION

In contract law, three elements are required to create a binding and enforceable contract: 1) offer; 2) acceptance; and 3) consideration. While the first two are relatively straightforward, consideration is more nuanced.

Valid consideration for contract formation requires a bargained-for exchange where a promise is given by one party to a contract in return for performance or a return promise by the other party. For example, Company A promises to provide a service (promise to perform), and the customer promises to pay (return promise) for that service.

These three elements together create a valid and enforceable contract. Many brokers believe in the context of purchase agreements, the seller's promise to sell and the buyer's promise to purchase, together with the earnest money is sufficient consideration to form a contract. While many courts agree, there are courts in various states that have held otherwise.

These courts have ruled that some purchase agreements are option contracts. An option contract is where one party has the option, not the obligation, to perform. Contracts for real estate have been found to be option contracts because the buyer can walk away under multiple contingencies. In this case, their promise to buy becomes illusory. Illusory consideration is not valid consideration, as it doesn't bind the buyer. Without binding obligations or independent consideration, the contract may not be enforceable.

Under the most recent of the New Mexico Association of REALTORS® ("NMAR") purchase agreements, the buyer has been given a broad due diligence period in which to thoroughly inspect the property, investigate surrounding areas and review all pertinent documents. Based on buyer's findings, the buyer may terminate the contract or may make objections to his/her findings. If the parties cannot negotiate buyer's objections, the buyer may terminate the agreement. In addition, there are multiple other contingencies in the NMAR purchase agreements, such as the ability of the buyer to obtain financing, the appraised value of the property being equal to or greater than the purchase price, and the ability of the buyer to obtain insurance on the property at customary rates to name just a few. In other words, the buyer is not obligated to purchase the property if any of the contingencies are not satisfied. However, buyer does have the option to purchase if all the contingencies are satisfied.

This is where independent consideration becomes important. As the name suggests, it is consideration (i.e., something of value) given independently of the main performance or promise. Independent consideration is generally given to support an option or contract, such as a purchase agreement for real estate.

Independent consideration must be real, bargained-for, not illusory, and it cannot simply be a promise to do what one was already obligated to do. It can be a small sum, even as little as \$10.00, but it cannot be zero.

As it applies to purchase agreements, the independent consideration would be negotiated between the parties and given to the seller (directly or through the title company) upon execution of the purchase agreement or some other short period of time thereafter. As soon as the buyer delivers the independent consideration to the seller or title company, as applicable, it is the seller's money to keep, even if the buyer terminates the purchase agreement. A potential exception to seller's right to retain the Independent Consideration would be if seller breached the purchase agreement by refusing to close.

Independent Consideration does not take the place of earnest money and Independent Consideration and earnest money serve very different purposes. The promise to deliver Independent Consideration and the delivery of Independent Consideration is required for formation of the contract. For this reason, if buyer terminates the purchase agreement, the Independent Consideration is not refunded to buyer. Earnest money is a term of the contract that indicates buyer's intent to act in good faith and abide by terms of the purchase agreement. If buyer acts in good faith and abides by the terms of the purchase agreement, but terminates the contract per the terms of the purchase agreement, then buyer is entitled to a return of buyer's earnest money. If buyer fails to act in good faith and abide by the terms of the purchase agreement, then buyer may forfeit his/her earnest money.

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NEW MEXICO ASSOCIATION OF REALTORS® — 2026

INFORMATION SHEET –

INDEPENDENT CONSIDERATION



This change to the NMAR purchase agreements was implemented to better protect both consumers and brokers. The law is ever changing, and while New Mexico has not specifically ruled that purchase agreements for real estate are option contracts, due to NMAR's further expansion of a buyer's termination rights, this possibility exists. Independent Consideration is necessary to mitigate the possibility that the contract fails for lack of buyer consideration.

LOGISTICS/PROCESS

- **Independent Consideration is required per the NMAR purchase agreements; it is not optional.**
- NMAR purchase agreements do not dictate the amount of Independent Consideration; it can be as little or as much as the parties negotiate, but it cannot be zero dollars (\$0).
- Independent Consideration does not replace earnest money and payment of Independent Consideration does not change how earnest money is treated under the purchase agreement. In the event the parties have agreed that buyer will pay earnest money, payment of the earnest money is in addition to payment of the Independent Consideration. Refund of the earnest money shall be in accordance with the purchase agreement.
- Independent Consideration may be paid to the seller directly or to the title company, as negotiated by the parties in the purchase agreement.
- If Independent Consideration is paid to the title company, it can be paid with the earnest money.
- If Independent Consideration is paid to the seller, it may be paid by any method to which the parties have agreed (cash, check, electronically, etc.). The buyer may request a receipt from the seller indicating seller received the Independent Consideration. Form 2104B – Receipt for Independent Consideration
- Delivery of the Independent Consideration to the seller or the title company, as negotiated, should not be more than three (3) days. The parties agree in the purchase agreements that the buyer's promise to deliver the Independent Consideration within some short period of time after full execution of the purchase agreement is sufficient consideration to form the purchase agreement. The Independent Consideration then becomes the consideration once it is delivered.
- **If buyer fails to deliver the Independent Consideration in accordance with the purchase agreement, the purchase agreement will automatically terminate. Buyer will not have an opportunity to cure buyer's failure to timely deliver the Independent Consideration in accordance with the purchase agreement.**
- If the Independent Consideration is delivered to the title company, the title company will disburse the Independent Consideration to the seller as soon as the title company processes the buyer's payment. Seller will need to direct the title company in writing as to how seller would like the funds distributed to seller. Depending on the disbursement type (for example, check, wire, etc.) there may be title company charges associated with the disbursement. Seller should familiarize him/herself with such charges before providing disbursement instructions to the title company. Processing fees, excluding seller disbursement fees which are borne by the seller, are negotiated between the parties in the purchase agreement.
- The Independent Consideration may be credited to the purchase price, down payment or buyer's closing costs (subject to lender approval), as negotiated between the parties in the purchase agreement. If the Independent Consideration is paid directly to the seller, and the Independent Consideration is being credited to the buyer at closing, the title company may require a copy of the seller's receipt, indicating seller received the Independent Consideration and the amount of the Independent Consideration. If the Independent Consideration is being credited, and Buyer is getting a loan, the lender may need evidence of how/where the Buyer got the Independent Consideration funds.
- Generally, once a title company starts a title commitment for a specific buyer, it will require a termination agreement in order to prepare a title commitment for a different buyer. To mitigate the possibility that the title company will need a fully executed termination agreement should the buyer fail to deliver Independent Consideration in accordance with the contract, the NMAR purchase agreements provide that the title company will **not** begin the title commitment until the title company receives the Independent Consideration or evidence from the seller that the seller has received the Independent Consideration.
- **If the contract terminates (does not result in Closing) for any reason, except for seller's breach of contract, seller retains the Independent Consideration; it shall not be refunded to buyer.**

**PART I – DUTIES DISCLOSURE**

Per New Mexico law, Brokers are required to perform a specific set of applicable Broker Duties. Prior to the time the Broker generates or presents any written document that have the potential to become an express written agreement, they must disclose such duties and obtain written acknowledgement that the Broker has made such disclosures.

SECTION A:

All Brokers in this transaction owe the following Broker duties to ALL buyers and sellers in this transaction, even if the Broker is not representing the buyer or the seller in the transaction:

1. Honesty and reasonable care and ethical and professional conduct;
2. Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico Real Estate License Law and the Real Estate Commission rules and other applicable local, state, and federal laws and regulations;
3. Performance of any and all written agreements made with the prospective buyer, seller, landlord (owner) or tenant;
4. Written disclosure of any potential conflict of interest that the Broker has in the transaction, including, but not limited to;
 - A. Any written Brokerage relationship the Broker has with any other parties to the transaction or;
 - B. Any material interest/relationship of a business, personal or family nature that the Broker has in the transaction; or
 - C. Any written agreement the Broker has with a Transaction Coordinator who will be providing services related to the transaction.
5. Written disclosure of any adverse material facts actually known by the Broker about the property or the transaction, or about the financial ability of the parties to the transaction to complete the transaction; adverse material facts requiring disclosure do not include any information covered by federal fair housing laws or the New Mexico Human Rights Act.

SECTION B:

In addition to the above duties, Broker(s) owes the following Broker Duties to the buyer(s) and/or seller(s) in this transaction to whom the Broker(s) is/are directly providing real estate services, regardless of the scope and nature of those services.

1. Unless otherwise agreed to in writing by the party, assistance to the party in completing the transaction including:
 - A. Timely presentation of and response to all written offers or counteroffers; and
 - B. Active participation in assisting in complying with the terms and conditions of the contract and with the finalization of the transaction;

If the Broker in the transaction is not providing the service, advice or assistance described in Para. 1 (A) or 1 (B) of this Subsection, the party must agree in writing that the Broker is not expected to provide such service, advice or assistance. The Broker shall disclose the existence of such agreement in writing to the other Brokers involved in the transaction.

2. Acknowledgement by the Broker that there may be matters related to the transaction that are outside the Broker's knowledge or expertise and that the Broker will suggest that the party seek expert advice on these matters;
3. Advice to consult with an attorney regarding the effectiveness, validity or consequences of any written document generated by the Brokerage or presented to the party and that has the potential to become an express written agreement;
4. Prompt accounting for all money or property received by the Broker;
5. Maintenance of any confidential information learned in the course of any prior agency relationship unless the disclosure is with the former principal's written consent or is required by law;
6. Written disclosure of Brokerage relationship options available in New Mexico:
 - A. **Exclusive agency:** an express written agreement between a person and a Brokerage wherein the Brokerage agrees to exclusively represent as an agent the interests of the person in real estate transaction;
 - B. **Dual agency:** an express written agreement that modifies existing exclusive agency agreements to provide that the Brokerage agrees to act as a facilitator in the real estate transaction rather than as an exclusive agent for either party;
 - C. **Transaction Broker:** the non-fiduciary relationship created by law, wherein a Brokerage provides real estate services without entering an agency relationship.
7. Unless otherwise authorized in writing, a Broker who is directly providing real estate services to a seller shall not disclose the following to the buyer in a transaction:
 - A. That the seller has previously indicated they will accept a sales price less than the asking or listed price;
 - B. That the seller will agree to financing terms other than those offered;
 - C. The seller's motivations for selling/leasing; or
 - D. Any other information the seller has requested in writing remain confidential, unless disclosure is required by law;
8. Unless otherwise authorized in writing, a Broker who is directly providing real estate service to a buyer shall not disclose the following to the seller in the transaction:
 - A. That the buyer has previously indicated they will pay a price greater than the price submitted in a written offer;
 - B. The buyer's motivation for buying; or
 - C. Any other information the buyer has requested in writing remain confidential unless disclosure is required by law.

BUYER(S) AND SELLER(S): PLEASE ACKNOWLEDGE RECEIPT BY INITIALING BELOW

**PART II – OTHER REQUIRED DISCLOSURES***Broker shall update these and all other required disclosures as needed.***BUYER'S BROKER DISCLOSURES:**

1. **Brokerage Relationship.** _____ (“Buyer’s Broker”) is working with the Buyer as a:
 - ☐ Transaction Broker with a written Buyer Brokerage Agreement.
 - ☐ Agent with a written Buyer Brokerage Agreement with Agency Addendum.
 - ☐ Transaction Broker without a written Buyer Brokerage Agreement, but with a Compensation Agreement.
 2. **In-House Transaction: Buyer and Seller’s Consent to Dual Representation, NO Dual Agency created.**
 - ☐ Brokerage is representing both Buyer and Seller.
 - ☐ Buyer’s Broker is licensed under the same Qualifying Broker as Seller’s Broker.
 - ☐ Buyer’s Broker is also Seller’s Broker for the property in this Transaction. Broker has a written listing agreement with Seller as a ☐ Transaction Broker ☐ Agent. **Unless otherwise stated in another agreement between Buyer’s Broker and Buyer, Buyer understands that they are NOT OBLIGATED to consent to this dual representation and that they may obtain their own broker to represent them in this transaction.**
- BUYER CONSENTS TO BUYER’S BROKER ALSO REPRESENTING THE SELLER IN THIS TRANSACTION** ☐ YES or ☐ NO **Buyer’s initials** _____/_____.
 3. ☐ **Dual Agency:** Brokerage is representing both Buyer and Seller by means of written agency agreements with each of them and Designated Agency has **not** been chosen by the Qualifying Broker; Designated Agency is a policy that discloses to a client that the Broker representing him/her as an agent is the client’s only representative in the Brokerage. When Designated Agency is **not** chosen, Dual Agency is created. Prior to writing or presenting this offer, Broker must obtain written consent from the parties to act as a Dual Agent (NMAR Form 1301 - Agency Agreement – Dual).
4. **Additional Disclosures:** If applicable, check box below.
 - ☐ Buyer’s Broker has an **OWNERSHIP INTEREST IN PROPERTY** _____
 - ☐ Buyer’s Broker has a **CONFLICT OF INTEREST** or **MATERIAL INTEREST** (business, personal or family) _____ 1
 - ☐ Buyer’s Broker knows of **ADVERSE MATERIAL FACTS** about the Property and/or Transaction _____ 1
 - ☐ Buyer’s Broker has engaged a **TRANSACTION COORDINATOR:** _____

SELLER’S BROKER DISCLOSURES:

1. **Brokerage Relationship.** _____ (“Seller’s Broker”) is working with the Seller as a:
 - ☐ Transaction Broker with a written Listing Agreement.
 - ☐ Agent with a written Listing Agreement with Agency Addendum.
 - ☐ Transaction Broker without a written Listing Agreement, but with a Compensation Agreement.
2. **Additional Disclosures:** If applicable, check box below.
 - ☐ Seller’s Broker has an **OWNERSHIP INTEREST IN PROPERTY** _____
 - ☐ Seller’s Broker has a **CONFLICT OF INTEREST** or **MATERIAL INTEREST** (business, personal or family) _____ 1
 - ☐ Seller’s Broker knows of **ADVERSE MATERIAL FACTS** about the Property and/or Transaction _____ 1
 - ☐ Seller’s Broker has engaged a **TRANSACTION COORDINATOR:** _____

¹ If more space is needed, attach NMAR Form 2100 – Broker Duties Supplemental Disclosure or other disclosure.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



TRANSACTION COORDINATORS are licensed Brokers who have been engaged by the Broker as indicated above to assist the Broker in the processing of the transaction, which may include gathering information and paperwork, overseeing, and organizing contractual deadlines, communicating, and coordinating with lenders, title companies, inspectors, other Brokers, and the parties to the contract to facilitate the Closing of the transaction, and assembling the final transaction file for Closing. **TCs OWE BROKER DUTIES AS SET FORTH ON COVER PAGE 1. ATTN TCs: USE NMAR FORM 2100 TO MAKE ANY DISCLOSURES REQUIRED BY BROKER DUTIES.**

- ☐ Buyer is a New Mexico Real Estate Broker
☐ Buyer is a party to another Buyer-Broker Agreement

- ☐ Seller is a New Mexico Real Estate Broker

BUYER(S)

SELLER(S)

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

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

THE FOLLOWING IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. BROKERS ARE NOT PARTIES TO THIS PURCHASE AGREEMENT.

BUYER'S BROKER(S)

Buyer's Brokerage Firm	Buyer's Broker's Qualifying Broker's Name and NMREC License No.	Buyer's Broker's Email Address
Buyer's Broker Name	Buyer's Broker's Team Name	Office Phone
Buyer's Brokerage Address	City	State
	Zip Code	Broker ☐ is ☐ is not a REALTOR®

Buyer's Brokerage Firm	Buyer's Broker's Qualifying Broker's Name and NMREC License No.	Buyer's Broker's Email Address
Buyer's Broker Name	Buyer's Broker's Team Name	Office Phone
Buyer's Brokerage Address	City	State
	Zip Code	Broker ☐ is ☐ is not a REALTOR®

SELLER'S BROKER(S)

Seller's Brokerage Firm	Seller's Broker's Qualifying Broker's Name and NMREC License No.	Seller's Broker's Email Address
Seller's Broker Name	Seller's Broker's Team Name	Office Phone
Seller's Brokerage Address	City	State
	Zip Code	Broker ☐ is ☐ is not a REALTOR®

Seller's Brokerage Firm	Seller's Broker's Qualifying Broker's Name and NMREC License No.	Seller's Broker's Email Address
Seller's Broker Name	Seller's Broker's Team Name	Office Phone
Seller's Brokerage Address	City	State
	Zip Code	Broker ☐ is ☐ is not a REALTOR®



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



Definitions: Capitalized terms not defined within the applicable sections are defined in Section VI.

SECTION I – PARTIES, PROPERTY, PURCHASE PRICE AND COSTS

1. **PARTIES, PROPERTY AND TERMS.** Seller agrees to sell, and Buyer agrees to buy the Property for the Purchase Price pursuant to the terms of this Purchase Agreement (“Agreement”). This Agreement shall apply to, be binding upon, enforceable against and inure to the benefit of the parties hereto and their respective representatives, successors, permitted assigns, heirs and estates.
 - A. **SELLER:** _____
 - B. **BUYER:** _____
If Buyer is a trust or legal entity AND Property is not being financed through a traditional lender, see **Para. 38.**
 - C. **PURCHASE PRICE:** \$ _____
 - i. **Approximate Cash Down Payment or Cash Due at Closing** ☐ To Be Determined By lender and/or Buyer **OR** \$ _____
 - ii. **Amount of Loan(s) or Seller Financing** ☐ to be determined by lender and/or Buyer **OR** \$ _____
 - D. **EARNEST MONEY (Para. 6):** \$ _____
 - E. **INDEPENDENT CONSIDERATION (Para. 7):** \$ _____
Amount must be greater than zero (\$0)
 - F. **NEW MEXICO GROSS RECEIPTS TAX (“GRT”) LOCATION CODE:** _____
(To be completed by Broker)
 - G. **SETTLEMENT/SIGNING DATE (Para. 44):** _____
 - H. **TITLE COMPANY (Para. 36) :** _____
 - I. **OFFER EXPIRATION DATE AND TIME** _____, at _____ ☐ am ☐ pm Mountain Time.
 - J. **PROPERTY:**
Property Address. _____
Legal Description. If left blank, the legal description of the Property shall be provided by Title Company unless otherwise specified in this Agreement. If the legal description of the Property in this Agreement is not accurate, this Agreement shall not be invalid, and the legal description shall be revised in a manner acceptable to Buyer, Seller and Title Company. _____

☐ An **EXHIBIT** is attached hereto with a depiction and/or description of the Property (check if applicable).
2. **OFF MARKET.** Unless otherwise agreed to in writing, as of Date of Acceptance, Seller shall take the Property off the market until termination of this Agreement. To be “Off Market” means Seller shall not accept any other offers to sell the Property, **except a Back-Up Offer.** Subject to MLS classification rules, while Off Market, Seller may continue to solicit Back-Up Offers.
3. **PROPERTY TYPE.** ☐ Site built ☐ Manufactured housing ☐ Modular ☐ Off-site built ☐ Other: _____
Form 2305 – Information Sheet - Manufactured Housing.
If not site built, attach Form 2321 – Manufactured and Modular Housing and Other Off-Site Construction Addendum.
4. **FIXTURES, APPLIANCES, AND PERSONAL PROPERTY.** Items not otherwise addressed below are governed by the definitions of “Fixture” and “Personal Property” in the Definitions Paragraph.

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NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



A. FIXTURES. Unless otherwise excluded below, the Property shall include all Fixtures, free of all liens, including, but not limited to, the below Fixtures **if such Fixtures exist on the Property at the time Buyer submits this offer.**

- | | | |
|--|--|---|
| • Attached fireplace grate(s) & screen(s) | • Dishwasher(s) | • Smoke Alarm(s) (if owned by Seller) |
| • Attached floor covering(s) | • Fire Alarm(s) (if owned by Seller) | • Solar Power System(s)/Panels (If leased by Seller, lien may exist) |
| • Attached mirror(s) | • Garbage disposal(s) | • Sprinkler(s)/irrigation equipment |
| • Attached outdoor lighting & fountain(s) | • Garage door opener(s) | • Storm window(s) & door(s) |
| • Attached pot rack(s) | • Heating system(s) | • TV antenna(s) & satellite dish(es) |
| • Attached window covering(s) & rod(s) (NOT including curtains or draperies, unless otherwise indicated below) | • Landscaping | • TV Wall Mounts (NOT including TVs, unless otherwise indicated below) |
| • Awning(s) | • Light fixture(s) | • Ventilating & air conditioning system(s) |
| • Built in/attached speaker(s) & subwoofer(s) | • Mailbox(es) | • Water conditioning/filtration/ water softener/purification system(s) (if owned by Seller) |
| • Built-In Microwave(s) | • Outdoor plant(s) & tree(s) (other than those in moveable containers) | • Window/door screen(s) |
| • Built-in Murphy bed(s) (INCLUDING mattress) | • Oven(s) | |
| • Ceiling fan(s) | • Pellet, wood-burning or gas stove(s) | |
| • Central vacuum, to include all hoses & attachments | • Range(s) | |
| | • Security Systems(s) – ALL components (if owned by Seller) | |

EXCLUSIONS. The following are excluded from this sale:

B. PERSONAL PROPERTY. The following existing Personal Property, if checked: shall remain with the Property; shall be the actual Personal Property that is present as of the date Buyer submits this offer; shall not be considered part of the premises; and shall be transferred with no monetary value, free and clear of all liens and encumbrances. If the Property contains more than one of an item checked, ALL of those items present at the time of Buyer's offer shall remain unless otherwise excluded. **Personal property listed in the multiple listing service ("MLS") listing is NOT included in this Agreement unless included below:**

- | | | |
|---|---|---|
| ☐ Unattached window covering(s) | ☐ Freestanding Range(s) | ☐ Satellite receiver(s) with access cards (if owned by Seller and if transferable) |
| ☐ Audio component(s) | ☐ Kitchen Refrigerator(s) | ☐ Unattached fireplace grate(s) |
| ☐ Video component(s) | ☐ Other Refrigerator(s) | ☐ Unattached fireplace screen(s) |
| ☐ Decorative mirror(s) above bath vanities | ☐ Garage door remote(s) # _____ | ☐ Unattached outdoor fountain(s) & equipment |
| ☐ Dryer(s) | NOTE: If the number of garage door opener remote(s) is left blank, Seller's obligation shall be no more than one working remote. | ☐ Unattached outdoor lighting |
| ☐ Washer(s) | ☐ Storage Shed(s) | ☐ Hot Tub(s) |
| ☐ Freezer(s) | ☐ Other: _____ | ☐ Pool & spa equipment including any mechanical or other cleaning system(s) |
| ☐ Microwave(s) | ☐ Other: _____ | |
| ☐ TV(s) | | |
| ☐ Electric Car Charger | | |

5. OTHER RIGHTS. The Buyer and Seller agree to the following terms regarding water (including ditch rights), mineral, wind, solar, and other rights appurtenant to the Property (collectively, "Other Rights").

A. OTHER RIGHTS CONVEY. Unless otherwise stated in an addendum, all Other Rights appurtenant to the property shall convey. Seller makes no warranty, express or implied, with respect to these Other Rights and reserves the right to convey these Other Rights, if any, by Quit Claim Deed. **Buyer is advised to consult an attorney to understand what Other Rights they are receiving by way of this Agreement and by the deed used by Seller to convey these Other Rights.**

B. SEVERED OTHER RIGHTS.

- i. **Seller Reservation.** If Seller intends to reserve any Other Rights, appurtenant to the Property or otherwise, Seller should **NOT sign this offer** and should consult with a licensed New Mexico attorney specializing in the subject matter to ensure that the reservation language adequately and accurately addresses the reservation and any related issues.
- ii. **Previously Severed.** If Seller is aware that any Other Rights have been previously severed from the Property, and belong to a third party, the Seller must disclose the details and provide related documentation.

C. NO TITLE INSURANCE. Title insurance will not cover/insure Other Rights.

D. CONVEYANCE “SUBJECT TO”. All Other Rights being conveyed are subject to prior reservations, leases, and/or encumbrances of record as identified in the Title Commitment.

E. WATER RIGHTS SPECIFICALLY. If the Property includes water rights, Buyer acknowledges that these rights are subject to regulation by the New Mexico Office of the State Engineer (“OSE”). If the water rights are associated with a ditch or flowing water source, Buyer understands that their use is governed by the state’s priority administration system and may fluctuate based on seasonal availability. If the water rights are associated with an irrigation well, Buyer acknowledges that their use is limited by the well’s permitted capacity and usage restrictions as established by the OSE.
Form 2328 – Information Sheet – Water Rights.

6. EARNEST MONEY. Buyer shall deliver the Earnest Money specified in **Para. 1(D)** to the Title Company identified in **Para. 1(H)** (“Title Company”) in any manner acceptable to Title Company, no later than _____ **DAYS (three [3] if left blank)** from ☐ **Date of Acceptance** OR ☐ **if Buyer has no objections to inspections, the Objection Deadline in Para. 33 or if Buyer has objections to inspections, the date the parties reach Resolution** OR ☐ **OTHER _____**. Earnest Money shall be applied to Purchase Price, down payment, and/or Closing Costs upon Funding Date. If the lender prohibits the credit of any portion of the Earnest Money towards the Purchase Price, down payment and/or Closing Costs, the Earnest Money or applicable portion thereof shall be refunded to Buyer after Closing. Buyer’s failure to timely deliver the Earnest Money shall be considered a default of this Agreement.

7. INDEPENDENT CONSIDERATION. *Independent Consideration is **REQUIRED** for formation of this Agreement. It can be any amount negotiated by the parties, but it must be greater than zero(\$0). If this transaction does not Close for any reason, other than Seller’s breach of this Agreement, the Independent Consideration shall **NOT** be refunded to Buyer. For further explanation of Independent Consideration see Para. 65(M), Form 6302 — Information Sheet - Independent Consideration.*

A. DELIVERY OF INDEPENDENT CONSIDERATION. In consideration of the sum stated in **Para. 1(E)** paid by Buyer, the sufficiency and receipt of which Seller hereby acknowledges, Seller hereby grants Buyer the exclusive right and option to purchase the Property.

- i. Buyer shall deliver Independent Consideration to ☐ Title Company or ☐ to Seller
 - a. If Delivering Independent Consideration to Title Company.



ATTENTION TITLE COMPANY: From Buyer funds received by Title Company per this Paragraph, amounts shall first be credited to Independent Consideration, with the remainder to Earnest Money.

- The Title Company shall release the Independent Consideration to Seller as soon as Buyer’s Independent Consideration payment to the Title Company has been processed, subject to any Title Company disbursement charges and receipt of Seller’s Independent Consideration disbursement instructions (“Seller’s IC Instructions”). Form 6303 - Seller’s Instructions to Title Company for Disbursement of Independent Consideration.
- Seller’s IC Instructions only require Seller’s signature(s); **no further disbursement agreement between Buyer and Seller (beyond this Purchase Agreement and Seller’s IC Instructions) is required for the Title Company to disburse the Independent Consideration to Seller.**
- If Independent Consideration is being delivered with the Earnest Money, Buyer may make payment for both Independent Consideration and Earnest Money in one check, money order or wire transfer.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



- Buyer shall be responsible for any fees associated with delivering Independent Consideration to Title Company. Seller shall be responsible for any fees associated with disbursement of Independent Consideration to Seller. Any additional fees charged by Title Company to process the Independent Consideration shall be paid in accordance with **Para. 12**.
- If the Independent Consideration is being delivered to the Title Company by check, check **shall be made payable to the Title Company**.

b. If Delivering Independent Consideration to Seller.

Buyer shall deliver Independent Consideration as follows:

☐ Check; ☐ Electronically; or ☐ Other: _____

- Seller shall notify Title Company when Seller receives the Independent Consideration from Buyer. Seller may use Form 2104B — Receipt for Independent Consideration or other method to verify receipt.
- Delivery of the Independent Consideration to the Seller's Broker identified on **Cover Page 3** shall constitute delivery to Seller, even if Seller's Broker is also representing Buyer.

ii. Date of Delivery. The Independent Consideration shall be delivered on or before _____ **DAYS after Date of Acceptance (three [3] if left blank).**

iii. Contract/Agreement Formation. The parties hereby agree that Buyer's commitment to deliver the Independent Consideration in accordance with this Paragraph is sufficient consideration to create a legal binding contract from the time of full execution of this Agreement to the time of delivery of the Independent Consideration.

iv. Buyer's Failure to Deliver Independent Consideration. If Buyer fails to deliver the Independent Consideration in accordance with this Paragraph, this Agreement shall automatically terminate, and notwithstanding **Para. 49**, Seller shall have **no obligation** to provide Buyer with any opportunity to cure. Upon termination, neither party shall have any further rights or obligations under this Agreement, with the exception of executing a Termination Agreement **if** required by the Title Company.

B. APPLICATION OF INDEPENDENT CONSIDERATION AT CLOSING. In the event of Closing, the Independent Consideration ☐ **shall** ☐ **shall NOT be** applied to the Purchase Price, down payment, and/or Closing Costs, subject to any lender restrictions, if applicable; Buyer should consult with Buyer's lender, if any, to determine what, if any, documentation may be needed by lender to allow the credit.

8. CASH, LOAN OR SELLER FINANCING.



ATTENTION BUYER



Buyer shall not change any of the following without Seller's approval: 1) the means of payment (cash, loan or seller financing); 2) the lender identified in the Pre-Qualification Letter; or 3) the loan-program type identified in the Pre-Qualification Letter. Seller's approval **SHALL NOT BE** unreasonably withheld. Upon Seller's approval, the parties shall execute an addendum to this Agreement that sets forth the change and addresses the disposition of Earnest Money should Buyer be unable to close as a result of the change. Unless otherwise addressed in an addendum, if Buyer is unable to satisfy the Financing Contingency after making a change outlined above, then Earnest Money shall be refunded to Buyer, except in the following event: Buyer does not provide a Rejection Letter in accordance with Para. 8(C).

A. ☐ CASH PURCHASE. Unless either box below is checked, then no later than _____ **DAYS (five [5] if left blank)** after the Date of Acceptance, Buyer shall provide Seller with Proof of Funds. **Brokers are not responsible for verifying the authenticity/veracity of Proof of Funds letters or for determining Buyer's creditworthiness.**

B. ☐ FUNDS ARE CONTINGENT ON THE CLOSING OF A CASH-OUT REFINANCE OR OTHER EVENT. If **ANY** portion of this Purchase Price is contingent on the following, Buyer shall complete this Paragraph.

i. ☐ Cash-Out Refinance Contingency.

☐ **All of Purchase Price** or ☐ **Portion of Purchase Price: \$** _____ Buyer shall satisfy or waive this Cash-Out Refinance Contingency and Deliver Proof of Funds to Seller for the above amount no later than _____ ("Refinancing Deadline"). If Proof of Funds is not delivered to Seller by the Refinancing Deadline, this Agreement shall terminate, and any Earnest Money delivered shall be refunded to Buyer.

ii. ☐ Funds are Contingent on Some Other Event: _____



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



C. ☐ **LOANS.** This Agreement is contingent upon Buyer's ability to obtain a loan(s) on or before the Settlement/Signing Date in the amount stated in **Para. 1(C)(ii)**.

i. **Pre-Qualification Letter: (from a lender)**

☐ Pre-Qualification Letter is attached as part of the Offer; or ☐ Buyer shall provide the Seller with a Pre-Qualification Letter no later than _____ **DAYS (seven [7] if left blank)** from the Date of Acceptance.

The Pre-Qualification Letter must stipulate the following:

- a. A written loan pre-application has been made;
- b. A credit report has been obtained and reviewed by the lender;
- c. A pre-qualification has been secured from the same lender;
- d. The loan type, as specified in this Paragraph; and
- e. The amount specified in **Para. 1(C)(ii)**, is available to complete the transaction by the Settlement/Signing Date, subject to contingencies provided for in this Agreement and underwriting approval.

Brokers are not responsible for verifying the authenticity/veracity of Pre-Qualification Letters.

ii. **Loan Application Deadline and Loan Type.** The Buyer shall make written application for a loan and provide a copy of the fully executed Purchase Agreement to lender no later than _____ **DAYS (one [1] if left blank)** from the Date of Acceptance for the following loan type:

- ☐ Conventional
- ☐ FHA
- ☐ NMMFA

- ☐ USDA
- ☐ VA
- ☐ Other: _____

iii. **Verification of Loan Estimate.** No later than _____ **DAYS (three [3] if left blank)** after Seller's written request, Buyer shall provide written verification from lender that lender has delivered the Loan Estimate to Buyer. **Seller's written request must be made at least three business (3) days AFTER the Loan Application Deadline above, as lenders have three (3) days after loan application to issue the Loan Estimate.**

iv. **Final Loan Approval Deadline.** Buyer shall cooperate and act in good faith in obtaining final approval for the loan as outlined in the Pre-Qualification Letter. If the lender determines that the Buyer will not qualify for the loan by the Settlement/Signing Date, Buyer shall deliver to Seller a written rejection letter from lender ("Rejection Letter") on or before 11:59 p.m. _____ **DAYS (three [3] if left blank)** before the Settlement/Signing Date ("Rejection Letter Deadline"). **Notwithstanding any other provision of this Agreement: if Buyer fails to deliver the Rejection Letter on or before the Rejection Letter Deadline, Buyer shall forfeit the Earnest Money to the Seller; Buyer shall not be afforded an Opportunity to Cure if the Rejection Letter is not delivered on or before the Rejection Letter Deadline; and there shall be no extension of the Rejection Letter Deadline if the Rejection Letter Deadline falls on a weekend or legal holiday.**

D. ☐ **SELLER FINANCING.** The amount in **Para. 1(C)(ii)** shall be financed by Seller and shall be secured by:

- ☐ Real Estate Contract (Form 2402 - Real Estate Contract Addendum to Purchase Agreement);
- ☐ Mortgage (Form 2507 - Addendum to Purchase Agreement – Seller Financing, Mortgage or Deed of Trust); or
- ☐ Deed of Trust (Form 2507 - Addendum to Purchase Agreement – Seller Financing, Mortgage or Deed of Trust).

9. ☐ **BUYER'S SALE, CLOSING AND FUNDING CONTINGENCY.** This Agreement is contingent upon the Sale, Closing and Funding of Buyer's property located at: _____ on or before _____ ("Buyer's SCF Contingency Deadline"), OR subject to any applicable Buyer's Contingency Addendum, if attached. If this Buyer's Sale, Closing and Funding Contingency is not satisfied or waived by Buyer's SCF Contingency Deadline, this Agreement shall terminate, and any Earnest Money delivered shall be refunded to Buyer.

- A. ☐ **CURRENTLY UNDER CONTRACT.** Buyer's property is currently under contract for sale.
☐ Optional - check if Form 2503A – Buyer's Closing and Funding Addendum is attached; OR
- B. ☐ **NOT YET UNDER CONTRACT.** Buyer's property is NOT yet under contract for sale.
☐ Optional - check if Form 2503 – Buyer's Sale Contingency Addendum is attached.

10. **APPRAISAL.**

A. **APPRAISAL ORDER DEADLINE.**

i. **Appraisal Order Deadline for Loan.** No later than (check applicable) _____ (specific date) or _____ **DAYS (two [2] days] if left blank)** from Date of Acceptance, Buyer shall direct lender in writing to order the Appraisal. **If the lender requires payment of the Appraisal at the time of order, then the party responsible for the cost of the Appraisal (Para 12) shall pay for the Appraisal by the Appraisal Order Deadline.** Upon written request from Seller, Buyer shall provide Seller evidence of Buyer's written direction to lender.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



- ii. **Appraisal Order Deadline for Cash or Seller Financing.** Buyer ☐ **does** ☐ **does not** require an appraisal. If an appraisal is required, Buyer shall select and order the appraisal, and the party responsible for the cost of the appraisal (**Para. 12**) shall pay for the appraisal no later than _____ (specific date) or _____ **DAYS** (two [2] days] if left blank) from Date of Acceptance.
- B. APPRAISAL CONTINGENCY.** If Buyer is obtaining an Appraisal, Buyer shall not be obligated to complete the purchase or incur any penalty, including the forfeiture of Earnest Money, if the Purchase Price exceeds the Appraisal.
- i. **Appraised Value Less Than Purchase Price.** In the event the appraised value is less than the Purchase Price, Buyer shall deliver a copy of the Appraisal to Seller within **three (3) days** of receiving the Appraisal and Buyer shall have the following options (collectively “Buyer’s Options”) to be exercised within **five (5) days** from Buyer’s delivery of the Appraisal to Seller (“5-Day Period”):
- Notify Seller in writing of Buyer’s election to proceed with this Agreement without regard to the amount of the appraised valuation;
 - Negotiate a revised Purchase Price with Seller, which revised Purchase Price shall be incorporated into an addendum to this Agreement and fully executed by the parties; or
 - Notify Seller in writing of Buyer’s intent to terminate this Agreement.
- ii. **Buyer’s Failure to Exercise Option.** If Buyer fails to exercise one of Buyer’s Options within the **5-Day period**, such satisfaction to include, if applicable, the parties fully executing a Price Modification addendum to this Agreement (Form 2101 – Price Modification/Seller Credits Addendum), this Agreement shall automatically terminate and Earnest Money, if delivered, shall be refunded to Buyer.
- C. CONDITIONAL APPRAISAL.** In the event the appraised value equals or exceeds the Purchase Price, but identifies conditions that must be satisfied for loan approval (“Conditions”), Buyer shall deliver a copy of the Appraisal to Seller within **three (3) days** of receiving the Appraisal, and the parties shall have **five (5) days** from Seller’s receipt of the Appraisal to negotiate and agree to a resolution regarding the Conditions. If the parties cannot come to a resolution regarding the Conditions that is satisfactory to the lender to meet requirements for loan approval, this Agreement shall automatically terminate and Earnest Money, if delivered, shall be refunded to Buyer.
- D. SQUARE FOOTAGE.** The Appraisal Contingency does **NOT** allow for termination based on a discrepancy between representations or assumptions about the square footage and the square footage as indicated in the appraisal.
- E. FHA/VA LOANS.** In the event the Buyer is obtaining an FHA or VA loan, and the Buyer’s lender requires that Seller sign an Amendatory or Escape Clause addendum, as applicable (“Lender Addendum”), Seller shall sign and deliver the Lender Addendum to Buyer within **five (5) days** of receipt from Buyer.

11. BUYER’S BROKERAGE COMPENSATION.



ATTENTION SELLER



As to this Paragraph/term of this Agreement, the Buyer’s Brokerage identified on Cover Page 3 is an intended third-party beneficiary, which means that Seller shall be directly liable to Buyer’s Brokerage under this Paragraph. The amount of compensation paid by a consumer to a Brokerage is fully negotiable and is NOT dictated by MLS rules, the local, state or National Association of Realtors® or local, state or national law.

If the Property is sold to Buyer identified in **Para. 1(B)** of this Agreement, Seller agrees to pay the following compensation, plus applicable GRT, to the Buyer’s Brokerage upon Closing and Funding of the transaction. **Notwithstanding the foregoing, Seller shall be liable to Buyer’s Brokerage for compensation if the Property does not Close and Fund due to Seller’s breach of this Agreement.**

If Seller has already entered into a compensation agreement with the Buyer’s Brokerage (Form 4660 – Seller’s Compensation to Buyer’s Brokerage, or other compensation agreement between Seller and Buyer’s Brokerage (“equivalent”), then any compensation Seller has agreed to pay in this Paragraph is **in addition to** the compensation that Seller has agreed to pay in Form 4660 or its equivalent. If Seller has *not* agreed to pay compensation to the Buyer’s Brokerage through Form 4660 or its equivalent, then the compensation set forth below is the total compensation Seller is required to pay the Buyer’s Brokerage.

☐ _____ % of purchase price of property OR ☐ Flat Fee: \$ _____ OR ☐ Other: _____
Buyer’s Brokerage cannot receive from one source or multiple sources (Listing Brokerage, Seller and/or Buyer) more than the Brokerage Compensation set forth in the Buyer Brokerage Agreement.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



Buyer's Brokerage may assign any compensation due under this Paragraph to another brokerage. Seller hereby authorizes Title Company to disburse Compensation directly to Buyer's Brokerage upon Closing and Funding of the Property.

- 12. COSTS TO BE PAID:** The parties agree to pay the following costs immediately when due. These costs shall be borne by the indicated party even if the transaction fails to close; however, if the failure to close is due to a default, the non-defaulting party may recover any costs they have paid as damages. The payment obligations outlined in this Paragraph pertain strictly to the costs specified and do not create any inspection or performance obligations beyond payment of the specific cost, unless expressly stated otherwise herein. Additional costs may be incurred beyond those listed below, which costs may be required by the lender, mandated by law, or arise from other circumstances.

LOAN RELATED COSTS AND FEES	BUYER	SELLER	SHARED EQUALLY	N/A	TITLE COMPANY CLOSING COSTS	BUYER	SELLER	SHARED EQUALLY	N/A
Appraisal Fee					Closing Fee				
Appraisal Re-inspection Fee					Pro-Rata Data Search (ABQ/BernCo.)				
Credit Report					Legal Document Preparation				
Flood Zone Certification					Special Assessment Search				
Loan Assumption /Transfer					Prior Title Policy Retrieval Fee				
Origination Charge up to: ☐ \$ ☐ %					Seller Recording Fees				
Points – Buydown					Buyer Recording Fees				
Points – Discount					Buyer Document Processing Fee				
Tax Service Fee					Seller Document Processing Fee				
BUYER'S PREPAIDS/ESCROWS REQUIRED BY LENDER					Independent Consideration Processing Fees (any fees not otherwise stated in Para. 7)				
Flood Insurance					FinCEN Administration Fees				
Hazard Insurance					TITLE COMPANY POLICY PREMIUMS				
Interest									
PMI or MIP					Title Commitment				
Taxes					Standard Owner's Policy				
MISC.					Title Policy Cancellation Fee				
Appraisal for Cash or Seller Financing					Mortgagee's Policy				
Elevation Certificate					Mortgagee's Policy Endorsements				
Excise Tax (Santa Fe)					MISC.				
Home Warranty Plan					Deletion of 1-4 Title Exceptions				
Impact Fees					Other:				
Survey/ILR					Other:				
Other:					See Para. 11 For Buyer's Brokerage Compensation				



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



1. Do not use this section for seller concessions/credits; Form 2101 – Price Modification/ Seller Credits Addendum. If not in an addendum, seller concessions/credits shall not be credited to Buyer, even if they are included in this grid or in the MLS listing.
2. Any fees charged by the Title Company to revise the title commitment, shall be borne by the party who necessitated the revision. In the event a third-party necessitates the revision (e.g., surveyor, appraiser, lender etc.), the party responsible for payment of the original third-party charge shall pay the revision charge.
3. Buyer shall pay all direct loan costs, not otherwise specified above.

13. INCORPORATED DOCUMENTS/ADDENDA. All exhibits and addenda to this Agreement are incorporated into this Agreement as operative provisions unless otherwise stated in a counteroffer or subsequent addendum. If there is any conflict between the provisions of this Agreement and any addendum that is referenced/incorporated into this Agreement, then the provisions of the Addendum shall control. The remaining, unchanged provisions of this Agreement shall remain in effect.

☐ Add. No. ___ Addendum to Purchase Agreement (Form 5101) or General Addendum (Form 2300)	☐ Add. No. ___ Mortgage/Deed of Trust (Form 2507)
☐ Add. No. ___ Appraisal Contingency Waiver (Form 2114)	☐ Add. No. ___ Price Modification/Seller Credits (Form 2101)
☐ Add. No. ___ Back Up Purchase Agreement (Form 1530)	☐ Add. No. ___ Real Estate Contract (Form 2402)
☐ Add. No. ___ Buyer's Closing/Funding Sale (Form 2503A)	☐ Add. No. ___ Residential Resale Condo (Form 2302)
☐ Add. No. ___ Buyer's Sale Contingency (Form 2503)	☐ Add. No. ___ Septic System and Other Seller Ordered Inspections (Form 5138)
☐ Add. No. ___ Escalation Clause (Form 2111)	☐ Add. No. ___ Tenant Occupied Property (Form 2106)
☐ Add. No. ___ Inspection/Observation Waiver (Form 5140)	☐ Add. No. ___ Water Rights (Form 2327)
☐ Add. No. ___ HOA/COA	☐ Exhibit ___ Occupancy Agreement – Buyer/Seller (Form 2201/2202)
☐ Add. No. ___ Lead-Based Paint (Form 5112)	☐ Other:
☐ Add. No. ___ Manufactured/Modular Homes (Form 2321)	☐ Other:

14. CONSENT AND NOTICE (If applicable, check all that apply)

- A. ☐ **BUYER ASSIGNMENT NOT ALLOWED.** If checked, Buyer may NOT assign this Agreement. If this Agreement is assignable (box is not checked), then Buyer may sell, assign or transfer Buyer's rights and obligations under this Agreement, provided that written notice of the assignment is delivered to Seller within _____ DAYS (five [5] if left blank) prior to Settlement/Signing Date ("Assignment Deadline"); no assignment shall be valid after the Assignment Deadline. In the event of assignment, Buyer expressly acknowledges and agrees that notwithstanding language to the contrary in any assignment, Buyer shall remain liable under this Agreement.
- B. ☐ **BUYER ACKNOWLEDGMENT OF REMOTE PROPERTY VIEWING.** If checked, Buyer acknowledges that they have not viewed the Property in person and have instead relied on remote methods, including, but not limited to, live video and audio calls with Brokerage or a third party, recorded videos, and/or photographs. Form 1505 – Remote Viewing and Sight Unseen Hold Harmless Agreement.
- C. ☐ **IRS 1031 TAX-DEFERRED EXCHANGE.** If checked, ☐ Buyer ☐ Seller intends to use this Property to accomplish a 1031 Tax-Deferred Exchange. The parties shall cooperate with one another in signing and completing any documents required. The non-exchanging party shall bear no additional expense. Notwithstanding any other provision of this Agreement, in the event of a 1031 Tax-Deferred Exchange, this Agreement shall be assignable to a Qualified Intermediary.
- D. **ELECTRONIC SIGNATURES.** The parties consent to conduct any business related to and/or required under this Agreement by electronic means including, but not limited to, the receipt of electronic records and the use of electronic signatures. Subject to applicable law, electronic signatures shall have the same legal validity and effect as original hand- written signatures. Nothing herein prohibits the parties from conducting business by non-electronic means. Either party may withdraw consent to receive records electronically and/or to the use of electronic signatures at any point in the transaction by delivering written notice to the other party.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



SECTION II – DISCLOSURE, DOCUMENTS AND INSPECTION/DUE DILIGENCE

- 15. PROPERTY CONDITION AND DISCLAIMER.** The Property is sold in its current “AS-IS” condition including, but not limited to, the nature, location, amount, sufficiency or suitability of the following: current or future value; future income to be derived therefrom; current or future production; condition; size; location of utility lines; location of sewer and water lines; availability of utility services or the possibility of extending improvements (paving, sewer, water, utilities, access) to the Property; easements with which the Property is burdened or benefited; lot boundaries; adjacent property zoning; physical and legal access; soil conditions; permits, zoning, or code compliance; lot size or acreage; improvements or square footage of improvements; and water rights. **Brokerage has not investigated and is not responsible for the foregoing aspects of the Property, among which lot size, acreage, and square footage may have been approximated, but are not warranted as accurate.** Buyer shall have had full and fair opportunity to inspect and judge all aspects of the Property with professional assistance of Buyer’s choosing prior to settlement.
- 16. MAINTENANCE.** Until the Possession Date, Seller shall maintain the Property and all aspects thereof including, but not limited to, the following: heating; air conditioning; electrical; roofs; solar; septic systems; well and well equipment; gutters and downspouts; sprinklers; plumbing systems, including the water heater; pool and spa systems; appliances; and other mechanical apparatuses. **If utilities are on as of the Date of Acceptance, Seller shall maintain utility service through the Possession Date (Para. 45), or as otherwise stated in an Occupancy Agreement.** It is the Buyer’s responsibility to arrange for the transfer of utilities into Buyer’s name on the Possession Date or as otherwise stated in an Occupancy Agreement. Seller shall deliver the Property, including all of the foregoing, and all other aspects thereof to the Buyer, in the same condition as of the Date of Acceptance, reasonable wear and tear excepted. The following items are specifically excluded from these requirements:
- 17. SELLER’S DUTY TO DISCLOSE.**
- A. ADVERSE MATERIAL FACTS.** Seller shall disclose to Buyer any Adverse Material Facts known to Seller about the Property and shall have an ongoing obligation up until, and including, the Settlement/Signing Date to disclose any newly discovered Adverse Material Facts (**Para. 34**). However, Seller does **NOT** have an obligation to inspect the Property for Buyer’s benefit or to repair, correct or otherwise cure known Adverse Material Facts that are disclosed to Buyer or unknown Adverse Material Facts that are discovered by Buyer’s inspections. Adverse Material Facts do not include facts exempt from the requirement of disclosure under 47-13-2 NMSA 1978. Form 1110 – Adverse Material Facts Property Disclosure Statement.
- B. MISCELLANEOUS DISCLOSURES/PRORATIONS.**
- i.** Seller shall disclose all applicable Property specific fees, lease agreements, private memberships and/or association fees or dues and taxes, all of which are to be prorated by the Title Company through Settlement/Signing Date.
- ii.** **The propane in the propane tank ☐ shall ☐ shall NOT be prorated.** If prorated, Seller shall receive a credit at Closing for the value of the unused propane provided that Seller delivers evidence to the Title Company of the unused propane in the tank (“Evidence”) no more than **ten (10) days** prior to the Settlement/Signing Date and no less than **five (5) days** prior to the Settlement/Signing Date (“Propane Notification Timeframe”). **Seller is not entitled to the propane proration credit if Seller does not provide Evidence to the Title Company within the Propane Notification Timeframe.**
- iii.** Equipment rental or contract service agreements (e.g., alarm system, satellite system, propane tank lease, private refuse collection, road maintenance, etc.), shall be terminated by the Seller prior to the Funding Date and paid in full unless Buyer wishes to continue said service agreements, in which case, Buyer and Seller shall arrange for continued service outside of Closing; **the Title Company shall not be responsible for proration thereof.**
- 18. INSURANCE CONTINGENCY/APPLICATION.**
- A. CONTINGENCY.** Provided the Contingency Deadline as set forth below is met, this Agreement is conditioned on the following:
- i.** Buyer’s ability to obtain a homeowner’s or property insurance quote on the Property at normal and customary premium rates based on the current use of the Property and/or Buyer’s intended use of the Property; AND
- ii.** Seller’s claim history having no impact on the Buyer’s insurance in the future.
- Buyer understands that an insurance company may cancel or change the terms of a homeowner’s or property insurance policy/quote for any reason prior to close of escrow or within sixty (60) days after issuance of the homeowner’s or property policy/quote (which generally occurs at Closing).**



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



B. CONTINGENCY DEADLINE. The Insurance Contingency set forth herein shall be deemed satisfied, unless within _____ **DAYS (fifteen [15] if left blank)** after Date of Acceptance of this Agreement, Buyer delivers written notice to Seller that one or more of the above insurance contingencies cannot be satisfied along with documentation from the insurance provider stating the same (“Insurance Contingency Deadline”). In the event Buyer delivers such notice and documentation to Seller by the Insurance Contingency Deadline, the Purchase Agreement shall terminate, and any Earnest Money delivered shall be refunded to Buyer.

19. INSPECTION/DUE DILIGENCE PERIOD. Buyer shall have from the Date of Acceptance through the Inspection/Due Diligence Objection Deadline in Para. 33 (“Inspection/Due Diligence Period”) to inspect and review the Property and to object to any issues identified through Buyer’s due diligence. During the Inspection/Due Diligence Period, Buyer shall review all of the information regarding the Property provided by Seller. Buyer is advised to exercise all their rights under and in accordance with this Agreement to investigate the Property. Unless otherwise waived, Buyer(s) may complete any and all inspections of the Property that they deem necessary. These inspections may include, but are not limited to, the following: home, electrical, heating/air conditioning, plumbing, roof, structural, lead-based paint (including risk assessment, paint inspection or both), well equipment (pumps, pressure tanks, lines), well potability tests, well water yield tests, pool/spa/hot tub equipment, wood-destroying insects, dry rot, radon, mold, square foot measurement, sewer line inspections, septic inspections, ductwork, and phase one environmental and soil tests. In addition, during the Inspection/Due Diligence Period, Buyer may perform such other inspections and review such other information as is desired by Buyer, including, but not limited to, a thorough investigation of the neighborhood and surrounding areas. This investigation may include, but is not limited to, the existence of registered sex offenders or other persons convicted of crimes that may reside in the area; the presence of any structures, businesses, or activities in the area that, in Buyer’s opinion, affect the value and/or desirability of the Property. Buyer agrees to not unreasonably disturb Seller’s tenants at the Property, if applicable, and to conduct all inspections and tests at times mutually acceptable to Buyer and Seller. Notwithstanding the foregoing, Buyer shall not conduct or allow any invasive testing or inspections that cause damage to the Property without the Seller’s prior written consent, which consent may be withheld in Seller’s sole and unfettered discretion. **The parties are encouraged to employ competent and, where appropriate, licensed professionals to perform all agreed upon inspections of the Property. Unless otherwise provided for in this Agreement, Buyer shall have the right to select all inspectors and order all inspections EVEN IF Seller has agreed to pay for the inspection(s).**

Form 2316 – Information Sheet - Home Inspector Licensing

- A. BUYER’S DUTIES AND RIGHTS; BUYER’S DILIGENCE, ATTENTION AND OBSERVATION.** Buyer has the following affirmative duties, which may be exercised through the Inspection/Due Diligence Objection Deadline set forth herein:
- i. To conduct all due diligence necessary to confirm all material facts relevant to Buyer’s purchase;
 - ii. To assure themselves that the Property is exactly what Buyer is intending to purchase;
 - iii. To become aware of the physical condition of the Property through their own investigation and observation;
 - iv. To investigate the legal, practical and technical implications of all disclosed, known or discovered facts regarding the Property;
 - v. To thoroughly review all written reports provided by professionals and discuss the results of such reports and inspections with the professionals who created the report and/or conducted the inspection; and
 - vi. Buyer shall conduct any due diligence necessary to verify the nature and extent of the Other Rights and to review all documents related to the Other Rights.
- B. SQUARE FOOTAGE.** Buyer is aware that any reference to the square footage of the improvements on the Property is approximate. If square footage is a material matter to Buyer, then Buyer shall investigate the square footage during the Inspection/Due Diligence Period.
- C. INSPECTOR SELECTION AND PAYMENT OF INSPECTIONS.** Unless otherwise provided for in this Agreement, Buyer shall have the right to select all inspectors and order all inspections even if Seller has agreed to pay for the inspection(s). Buyer shall pay for all inspections except the following, which shall be paid by Seller.

The party who agrees to pay for the inspection is responsible for doing so, even if the transaction does not close.

D. SELLER ORDERED INSPECTIONS. All inspections shall be ordered by Buyer, unless otherwise stated in an addendum. If Seller is ordering inspections, attach Form 5138 – Septic System and Other Seller Ordered Inspections Addendum.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



20. **WAIVER OF INSPECTIONS/INSPECTION CONTINGENCY.** If Buyer intends to waive all or any inspections, attach Form 5140 – Inspection and Observation Waiver Addendum. This Waiver of Inspections does not waive Buyer’s right to object to any document delivered as provided in **Para. 32. If Buyer waives the Inspection Contingency, Buyer is NOT entitled to conduct inspections of the Property and notwithstanding Para. 21, Seller is NOT required to allow Buyer entry to the Property for purposes of conducting inspections, making observations or for any reason covered by Para. 19 or Para. 33. This waiver does not impact Buyer’s right to entry under the Appraisal Contingency or the Walk-Through provisions of this Agreement.**
21. **BUYER’S ENTRY.** Unless Buyer waives inspections, Seller shall provide reasonable access to Buyer, Buyer’s invitees accompanied by Buyer, and Buyer’s inspectors through the Resolution Deadline. Buyer shall return the Property to the condition it was in prior to any entry, test and/or inspection by Buyer. All inspections and tests conducted by Buyer regarding the Property shall be promptly paid for by Buyer. Buyer shall be liable to Seller for any damages incurred by Seller or that occur to the Property as a result of any inspection conducted by Buyer, their agents, invitees, inspectors, contractors and/or employees (collectively “Buyer’s Agents”). Buyer indemnifies and agrees to defend Seller from any and all claims, liabilities, liens, losses, expenses (including reasonable attorneys’ fees and costs), and/or damages that occur on the Property arising out of or related to any such entry, inspections and/or tests conducted by Buyer’s Agents. **Buyer and Buyer’s agents are not permitted on the Property without prior notification to and approval by Seller or Seller’s Brokerage.**
22. **AVAILABILITY OF UTILITIES FOR INSPECTIONS.** ☐ Buyer ☐ Seller shall be responsible for paying any charges required by the utility companies to have utilities turned on for inspection purposes. Notwithstanding the foregoing, Buyer shall not be obligated to pay unpaid utility bills, and unless otherwise agreed to in writing, neither party shall be obligated to alter the Property so as to conform with city or county building codes. If utilities are on as of the Date of Acceptance, Seller shall maintain utilities through Possession Date or date otherwise stated in an Occupancy Agreement.
23. **LEAD-BASED PAINT (“LBP”).** If any part of this Property is a RESIDENCE built before 1978 (zero-bedroom dwellings excepted), Seller may not accept an offer from Buyer until specific disclosures regarding LBP have been made to Buyer. Additionally, both Residential AND certain commercial buildings built prior to 1978 are subject to the Lead-Based Paint Renovation Repair and Painting Program (“RRPP”) (Form 2315 – Information Sheet – LBP RRPP). If this Paragraph applies, attach Form 5112 – LBP Addendum to Purchase Agreement. Also, see Form 5200 – Protect Your Family from Lead in Your Home – EPA Brochure.
24. **FLOOD HAZARD ZONE.** If the Property is located in an area which is designated as a special flood hazard area, Buyer may be required to purchase flood insurance in order to obtain a loan secured by the Property from any federally regulated financial institution or a loan insured or guaranteed by an agency of the U.S. Government.
25. ☐ **PUBLIC IMPROVEMENT DISTRICT (“PID”) (Check if applicable).** If Property is located in a PID, then **Seller may NOT accept an offer from Buyer until specific PID disclosures have been made to Buyer.** Buyer shall initial all PID disclosures provided to Buyer from Seller, indicating Buyer’s receipt of the disclosure(s). Form 4500 – Information Sheet - Public Improvement District.
26. **ESTIMATED PROPERTY TAX DISCLOSURE.** Form 3275 – Information Sheet - Estimated Property Tax Disclosure.
☐ Buyer(s) hereby acknowledges receipt of the Estimated Property Tax Levy; **OR**
☐ Buyer(s) hereby acknowledges that the Estimated Property Tax Levy on the Property is not readily available and does hereby waive the right to receive the Estimated Property Tax Levy.
27. ☐ **SEPTIC SYSTEM ON PROPERTY (Check if applicable).** If the Property has a septic system, the transfer of the Property is subject to regulations of the New Mexico Environment Department governing on-site liquid waste systems, which includes the requirement that Seller have an evaluation conducted by a licensed septic system evaluator prior to transfer. Evaluations are valid for 180 days from date of evaluation. If Seller is not providing an existing Septic System Evaluation, attach Form 5138 – Septic System and Other Seller Ordered Inspections Addendum. Form 2308 – Information Sheet – Septic Systems Important General Information and Disclaimer.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



28. ☐ **WELL(S) ON PROPERTY (Check if applicable).** If the Property has a well, the transfer of the well is subject to the regulations of the New Mexico Office of the State Engineer, which includes the requirement that the State Engineer's Office be notified when a well (private and shared domestic wells and irrigations wells) changes ownership. Form 2307 – Information Sheet - Domestic Wells. Seller disclosure of details relating to well(s) on the Property are included in Form 1110 – Adverse Material Facts Disclosure.
29. ☐ **TENANT(S) OCCUPYING PROPERTY AFTER CLOSING (Check if applicable).** If Buyer is aware that a tenant will occupy the Property **after** Closing, attach Form 2106 – Tenant Occupied Property Addendum. **By accepting this offer without Form 2106 attached, Seller is warranting that no tenant shall occupy the Property after Closing.**
30. ☐ **SOLAR PANELS ON PROPERTY (Check if applicable).** If the Property has a solar panel system, it shall convey with the Property free and clear of any liens, loans or agreements, **unless the box below is checked.**
☐ **If checked, the Solar Panel system is subject to a lease, loan or power purchase agreement (“PPA”) that will NOT be fully satisfied/paid in full by either party on or before Closing.** Attach Form 5125 - Solar Panel System Lease/Loan or PPA Assumption Contingency Addendum. Also, see Form 5130 - Information Sheet - Solar Panel System.
31. ☐ **HOMEOWNERS' ASSOCIATION (“HOA”) AND/OR CONDOMINIUM OWNERS ASSOCIATION (“COA”) (Check if applicable).** If the Property has an HOA or COA, Seller shall provide Buyer with specific documents pertaining to the Property and the HOA and/or COA, as applicable. Attach Form 4610- HOA/COA Addendum.
32. **EXISTING DOCUMENT DELIVERY DEADLINE:** _____ (specific date) or _____ **DAYS from**
☐ **Date of Acceptance** ☐ **Date of Delivery of Independent Consideration** or ☐ **Other:** _____.

Seller shall provide to Buyer, no later than the Document Delivery Deadline, true, correct and complete copies, to the extent that they are in Seller's control or possession, the following documents selected below. Documents typically provided by the Title Company will be delivered to Buyer in accordance with **Para. 37.**

- | | |
|---|--|
| ☐ Adverse Material Facts Disclosure Statement | ☐ Solar Panel System Documents |
| ☐ Inspection Reports (docs and video, as applicable) | ☐ Tenant Occupied Property Docs per Form 2106 |
| ☐ Road Documents | ☐ Warranties |
| ☐ Septic System Permit | ☐ Water Rights Documents |
| ☐ Other Permits: _____ | ☐ Well Documents (incl: permits, log, well share) |
| ☐ Service and Other Contracts (Para. 17(B)) | ☐ Other: _____ |
| ☐ Other: _____ | ☐ Other: _____ |

33. INSPECTION/DOCUMENT/DUE DILIGENCE OBJECTION AND RESOLUTION.

- A. INSPECTION/DOCUMENT/DUE DILIGENCE OBJECTION DEADLINE:** _____ (specific date)
 or _____ **DAYS from** ☐ **Date of Acceptance** ☐ **Date of Delivery of Independent Consideration** or
☐ **Other:** _____.

If Buyer objects to any matter revealed by Buyer's inspections/due diligence or Buyer's review of any document, then prior to the end of the Inspection/Due Diligence Objection Deadline, Buyer may submit to Seller, in writing, any objections and Buyer's requested cure of those objections, or Buyer may terminate this Agreement. Form 5141 – Notice of Objection or Form 5105 – Termination Agreement (Waiver of Specific Performance). **Failure of Buyer to object or terminate this Agreement by the Inspection/Due Diligence Deadline shall be deemed a waiver of Buyer's right to object or terminate this Agreement based on any aspect of the Property governed by this Paragraph and Buyer shall be deemed to have approved of all aspects of the Property governed by this Paragraph.**

Notwithstanding, the Inspection/Due Diligence Objection Deadline, if the Title Policy indicates a reservation of Other Rights, Buyer shall have through the Title Review Deadline in Para. 37 to object to said reservation of Other Rights.

- B. OBJECTIONS.** Form 5141 – Notice of Objection. **Once Buyer makes objections, Buyer may NOT withdraw their objections for the purpose of terminating this Agreement until Seller has responded.** Once Seller responds, Buyer may terminate the Agreement **UNLESS** Seller has agreed to cure all the Buyer's objections in the manner requested by Buyer. If in Seller's response, Seller agrees to cure all of the Buyer's objections in the manner requested by Buyer, the parties are obligated to execute a Resolution Addendum reflecting that agreement. Notwithstanding the foregoing, at

any point prior to the Resolution Deadline, Buyer may withdraw their unresolved objections for the purpose of proceeding to Closing with the understanding that Seller shall not be responsible for repairing or otherwise remedying those objections for which Resolution has not been reached. Form 5144 – Notice of Buyer’s Withdrawal of Unresolved Objections.



ATTENTION BUYER AND BUYER’S BROKER – EARNEST MONEY AT RISK



Under this Inspection/Documents/Due Diligence Contingency, if Buyer timely elects to terminate this Agreement based on this Contingency, or timely elects to make objections and the parties cannot come to Resolution on Buyer’s objections, then any Earnest Money delivered by Buyer shall be refunded to Buyer. However, notwithstanding Buyer’s right to a refund of Earnest Money under this or any other contingency of this Agreement, if Buyer or Buyer’s Broker sends the entire inspection report in violation of this Para. 33 (“Buyer’s Inspection Default”), and this Agreement terminates for any reason, excepting Seller’s breach of this Agreement, Buyer shall forfeit any Earnest Money delivered. If Buyer is otherwise entitled to terminate this Agreement based on the Inspection Contingency or any other contingency, Buyer’s forfeiture of the Earnest Money shall be the extent of damages to which Seller shall be entitled for Buyer’s Inspection Default; Buyer shall not be liable for any additional damages for Buyer’s Inspection Default. Request for inspections must come from Seller, not Listing Broker, unless Listing Brokerage has an agency agreement with Seller. Form 5145 – Seller’s Request for All/Sections of the Inspection Report.

i. Asking for Repair/Replacement.

- a. Making Objections to Documents/Video.** If Buyer **OBJECTS** to an item on a document (other than an inspection report) or a video, Buyer shall produce with the objection(s) a copy of the **ENTIRE** document, or video on which Buyer’s objection(s) is based.
- b. Making Objections to Inspections.** If Buyer **OBJECTS** to an item on an inspection report, Buyer shall produce with the objection(s) **ONLY the SPECIFIC ITEM(S)** of the report on which Buyer’s objection(s) is/are based and **SHALL NOT SEND the entire inspection report or any portion thereof, unless requested by Seller in writing.**

ii. Asking for Price Modification or Seller Concession. If Buyer is making a request only for a monetary concession, Buyer **SHALL NOT LIST** the items/deficiencies for which Buyer is requesting the monetary concession and **SHALL NOT SEND the entire inspection report or any portion thereof, unless requested by Seller in writing.**

C. RESPONSE/NEGOTIATION.

- i. Seller’s Response.** If Buyer elects to make objections, then in response to Buyer’s objections, Seller may do one of the following: agree to cure Buyer’s objections as requested; provide an alternative cure for Buyer’s objections; or refuse to cure Buyer’s objections - Form 5142 - Response to Notice of Objection. Seller is not required to cure any of Buyer’s objections; however, Seller may not terminate this Agreement based on the fact that Buyer made objections. **If in Seller’s initial response, Seller does not agree to cure ALL of Buyer’s objections in the manner requested by Buyer, then Buyer may elect to terminate this Agreement.**
- ii. Buyer’s Response.** If Buyer does not agree with Seller’s Response, Buyer may create Buyer’s own Response outlining Buyer’s desired cure - Form 5142 - Response to Notice of Objection.

D. RESOLUTION DEADLINE: _____ (specific date) or ☐ _____ DAYS (five [5] if left blank) from the Inspection, Document/Due Diligence Deadline or ☐ Other: _____

- i. Resolution Addendum.** If Buyer makes objections, the parties shall have through the Resolution Deadline to negotiate a Resolution to Buyer’s objections and to execute a Resolution Addendum, which Resolution Addendum shall set forth the parties’ agreement – Form 5143 - Resolution Addendum. **If Buyer is obtaining a loan, Buyer is advised to discuss terms of the Resolution Addendum with Buyer’s lender BEFORE executing the Resolution Addendum, as changes to the Purchase Agreement as set forth in the Resolution Addendum may impact Buyer’s loan.**
- ii. Repairs/Completion Deadline.** If Seller agrees to complete any repairs prior to Closing, Seller shall complete the repairs no later than _____ DAYS (three [3] days if left blank) prior to Settlement/Signing Date (“Repair Completion Deadline”). **If state or federal law requires that the type of repair/replacement be performed by a licensed professional/contractor, Seller shall hire an appropriately licensed individual to make the repair/replacement and copies of all repair invoices, which shall include vendor contact information and license number, shall be provided to Buyer on or before the Pre-Closing Walk-Through Date in Para. 43.**



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



iii. **Withdrawal of Objections.** If the parties are unable to reach a Resolution by the Resolution Deadline, then Buyer shall have **two (2) days** after the Resolution Deadline to provide written notification to Seller that Buyer is withdrawing all objections on which the parties have not come to Resolution (Form 5144 – Notice of Buyer’s Withdrawal of Unresolved Objections) and the Agreement shall remain in effect and continue to Closing, subject to the other provisions of this Agreement. If Buyer does NOT withdraw unresolved objections within **two (2) days** after the Resolution Deadline, then **this Agreement shall terminate**, and any Earnest Money delivered shall be refunded to Buyer.

iv. **Limited Extension of Resolution Deadline (“Extension”).** The last party to receive a response prior to the Resolution Deadline (“Receiving Party”) shall have **two (2) days** from delivery of the response or the Resolution Deadline, whichever should occur later, to accept the response, meaning that the Resolution Deadline shall automatically extend if necessary to provide the Receiving Party **two (2) days** to accept the response. **The Extension is not for purposes of further negotiation; the Extension is strictly for the purpose of allowing the Receiving Party two (2) days to accept the response.** If the parties wish to extend the Resolution Deadline **for purposes of further negotiation**, the parties should execute an addendum. **Form 5101 – Purchase Agreement Addendum.**

E. **TERMINATION. Form 5105 – Termination Agreement (Waiver of Specific Performance).** If Buyer elects to **TERMINATE** this Agreement without requesting Seller to cure any objections, Buyer **SHALL NOT SEND** the document, survey and/or inspection report, or any portion thereof, on which Buyer’s Termination Agreement is based, unless requested by Seller in writing. **Provided Buyer has received an inspection report, then upon Seller’s written request for a copy of the document, survey and/or inspection report, Buyer shall provide said document, survey or report within three (3) days from Seller’s written request.** Buyer shall provide said inspection report to Seller without payment or other compensation. If this Agreement terminates due to inspections, Seller shall have **five (5) days** after full execution and delivery of the Termination Agreement to request a copy of the inspection report. Notwithstanding the foregoing, Buyer is only obligated to provide the inspection report upon written request of the Seller if the termination is based on inspections.

34. **NEWLY DISCOVERED ADVERSE MATERIAL FACTS.** Seller shall have an ongoing obligation up until, and including, the Settlement/Signing Date to disclose any newly discovered Adverse Material Facts. In the event that Seller discloses newly discovered Adverse Material Facts after Seller’s initial Property Disclosure Statement is delivered, Buyer’s Objection Deadline for the newly disclosed Adverse Material Facts shall be **three (3) days** from Buyer’s receipt of the disclosure(s) and the Resolution Deadline shall be **six (6) days** from Buyer’s receipt of the disclosure(s). Failure of Buyer to timely make objections to the newly disclosed Adverse Material Facts shall constitute a waiver of Buyer’s right to object or terminate based on that newly disclosed Adverse Material Fact.

35. **HOME WARRANTY CONTRACT.** Buyer is advised to investigate the various home warranty plans available for purchase. The parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations and service fees and most plans exclude pre-existing conditions. Neither the Seller nor the brokers/brokerages involved in this transaction is/are responsible for home warranty coverage or lack thereof. The parties acknowledge that a home warranty service contract provider may conduct an inspection of the Property, but does not always do so.

- A. ☐ A Home Warranty Plan shall be ordered by ☐ Buyer ☐ Seller to be issued by _____ at a cost not to exceed \$ _____ (Cost to be paid by party indicated in **Para. 12**) OR
- B. ☐ Buyer declines the purchase of a Home Warranty Plan.

SECTION III –TITLE COMPANY AND CLOSING

36. **TITLE COMPANY (“Title Company”)** is identified in **Para. 1(H)**.

Preferred Title Officer Name (Optional and Subject to Change): _____

37. **EXAMINATION OF TITLE, LIENS AND ASSESSMENTS.**



ATTENTION TITLE COMPANY: Per Para. 37(A) below, the parties have agreed the Title Company will not begin the Title Commitment until the Title Company has received the Independent Consideration or Evidence that Seller has received the Independent Consideration.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



A. ORDER DATE. ☐ Seller ☐ Buyer shall order a Title Commitment from the Title Company within **one (1) day** after Buyer delivers Independent Consideration to either the Title Company or Seller, as applicable (see **Para. 7** for Independent Consideration delivery requirements). **If Independent Consideration is being delivered to Seller per Para. 7(A)(i)(b), Seller shall notify Title Company when Seller receives the Independent Consideration. Form 2104B — Receipt for Independent Consideration.**

The parties agree the Title Company shall not begin the Title Commitment until Title Company has received Independent Consideration or Evidence that Seller has received Independent Consideration.

B. LIENS/JUDGMENTS. Seller shall satisfy any judgments and liens including, but not limited to, all mechanics and materialmen's liens of record on or before the Funding Date, and shall indemnify and hold Buyer harmless from any liens filed of record after the Settlement/Signing Date which arise out of any claim related to the providing of materials or services to improve the Property as authorized by Seller or Seller's agents, unless otherwise agreed to in writing.

C. BUYER'S OBJECTIONS TO TITLE COMMITMENT AND RESOLUTION.

i. Title Review Deadline. Buyer shall have _____ **days (seven [7] days if left blank)** after receipt of the Title Commitment, and all documents referred to therein, to review and object to:

- a. Title Exceptions** indicated in the title commitment, including the Standard Exceptions ("Exceptions"); and
- b. Bonds, Impact Fees and Assessments**, other than a PID, indicated in the title commitment, (collectively, "Assessments").

ii. Seller Title Notification Deadline. If Buyer objects to the Exceptions or Assessments, and Seller is unwilling or unable to resolve the objection before the Settlement/Signing Date, Seller shall provide written notice to Buyer within _____ **DAYS (five [5] days if left blank)** after receipt of Buyer's objections.

iii. Buyer Title Notification Deadline. If Seller is unwilling or unable to resolve the objection(s) before the Settlement/Signing Date, then within _____ **DAYS (five [5] days if left blank)** from Seller's written notification to Buyer, Buyer shall have the following options:

- a. Title Exceptions.** Buyer may choose to close subject to Exceptions, remove the Exceptions at Buyer's expense or terminate this Agreement.
- b. Assessments.** Buyer may choose to close subject to Assessments or to terminate this Agreement. If Buyer chooses to close, the current installment of Assessments shall be prorated through Settlement/Signing Date and Buyer shall assume future installments.

Buyer's failure to notify Seller of Buyer's election on or before Buyer Title Notification Deadline shall serve as Buyer's election to close on the Property subject to the matters revealed by the Title Commitment. If Buyer timely terminates on or before the Buyer Title Notification Deadline, any Earnest Money delivered by Buyer shall be refunded to Buyer.

38. FINCEN INFORMATION DISCLOSURE. Under a rule issued by the Financial Crimes Enforcement Network ("FinCEN"), effective March 1, 2026, if the Buyer in this transaction is a trust or legal entity, such as a corporation or limited liability company, AND the Property is not being financed through a traditional lending institution that is subject to certain federal laws, then prior to Closing, the parties shall be required provide to the Title Company certain specific information about the Seller, Buyer and funds used for purchase. **The Title Company will not close this transaction and issue a Title Policy without this information.** The parties agree to provide to the Title Company all information needed to comply with the FinCEN rule no later than _____ **DAYS (five [5] if left blank)** prior to the Settlement/Signing Date. Form 2360 – Information Sheet – FinCEN.

39. CONVEYANCE DOCUMENTS. Seller shall convey good and marketable title to the Property by ☐ General Warranty Deed or ☐ Special Warranty Deed, subject only to any matters identified in the title commitment and not objected to by Buyer as provided herein. The legal description contained in the deed shall be the same legal description contained in the title commitment and any survey required in this Agreement. Notwithstanding this Paragraph, Seller reserves the right to convey Other Rights by Quit Claim Deed. **For more information on the deeds referenced, see Para. 65(H) and consult with the Title Company and/or a real estate attorney.**

40. SURVEY/IMPROVEMENT LOCATION REPORT ("ILR").

A. EXISTING SURVEY/ILR. This subparagraph applies if Seller is in possession of a Survey/ILR or there is a Survey/ILR on file in the county records ("Existing Survey/ILR"). If no Existing Survey/ILR is available, Seller shall notify Buyer in writing of these facts within **five (5) days** of the Date of Acceptance, and the parties should proceed to **Para. 40(B).**



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



- i. **Delivery of Existing Survey/ILR.** Seller shall deliver or cause to be delivered the Existing Survey/ILR to the Buyer, within ____ **DAYS (five [5] days if left blank)** from Date of Acceptance.
- ii. **Acceptance of Existing Survey/ILR.** (Check applicable). Notwithstanding Buyer's election below, Buyer reserves the right to accept an Existing/ILR at *any* time.
 - a. ☐ Buyer will accept the Existing Survey/ILR (and waives the right to a new Survey/ILR) **provided** the Existing Survey/ILR is acceptable to the Title Company and lender (if applicable); or
 - b. ☐ Buyer will accept the Existing Survey/ILR (and waives the right to a new Survey/ILR) **provided** the Existing Survey/ILR is acceptable to the Title Company and lender (if applicable) **to remove the Survey Exception(s);** or
 - c. ☐ Buyer will NOT accept the Existing Survey/ILR and requires a New Survey/ILR.
- iii. **Owner's Affidavit.** If Buyer accepts an Existing Survey/ILR, then no later than ☐ the Settlement/Signing Date; or ☐ ____ **DAYS (five [5] if left blank)** prior to the Settlement/Signing Date, Seller shall execute an Owner's Affidavit of Survey Matters and any other document required by the Title Company for acceptance of the Existing Survey/ILR.

B. NEW SURVEY/ILR. A new Survey/ILR ("New Survey/ILR") shall be required if any of the following applies:

- Seller has notified Buyer that there is no Existing Survey/ILR available;
 - Existing Survey/ILR does not satisfy Buyer's conditions as indicated in **Para. 40(A)(ii)**;
 - Buyer will not accept an existing Survey/ILR, as indicated in **Para. 40(A)(ii)** ; and/or
 - Title Company or lender (if applicable) requires a new Survey/ILR.
- i. **New Survey/ILR Order Date.** The New Survey/ILR, as indicated below, shall be ordered by the party paying for the New Survey/ILR (**Para. 12**) as soon as practicable and, in any event, no later than ____ **DAYS (five [5] days if left blank)** from receipt of the Title Commitment. The New Survey/ILR must be prepared by a registered professional land surveyor acceptable to the Title Company and if Buyer is obtaining a loan, to Buyer's lender(s). All surveys shall be certified to Seller, Buyer, Title Company and Buyer's lender, if any. Form 4000 – Information Sheet – Survey & ILR.
Check Survey type and optional items.

- ☐ ALTA
☐ Staked Boundary
☐ ILR

- ☐ Flagged Corners, if located
☐ Flood Zone Designation
☐ Other: _____

- ii. **New Survey/ILR Delivery Date.** If Seller is ordering the New Survey/ILR, then the New Survey/ILR shall be delivered to Buyer no later than ____ **DAYS (fifteen [15] if left blank)** prior to the Settlement/Signing Date.
- iii. **New Survey/ILR Objection Deadline:** Buyer may make objections to the New Survey/ILR or terminate this Agreement based on the New Survey/ILR, by delivering written notice to Seller no later than ____ **DAYS (ten [10] if left blank)** prior to the Settlement/Signing Date. Buyer's failure to deliver objections or termination prior to the New Survey/ILR Objection Deadline, shall be deemed Buyer's approval of the new Survey/ILR.
- iv. **New Survey/ILR Resolution Deadline:** If Buyer timely makes objections to the New Survey/ILR, the parties shall have ____ **DAYS (five [5] if left blank)** from Buyer's delivery of objections to reach Resolution to Buyer's objections. If the parties are unable to reach a Resolution by the New Survey/ILR Resolution Deadline, then Buyer shall have **two (2) days** after the New Survey/ILR Resolution Deadline to provide written notification to Seller that Buyer is withdrawing all objections on which the parties have not come to Resolution (Form 5144 – Notice of Buyer's Withdrawal of Unresolved Objections) and the Agreement shall remain in effect and continue to Closing, subject to the other provisions of this Agreement. If Buyer does NOT withdraw unresolved objections within **two (2) days** after the New Survey/ILR Resolution Deadline, then **this agreement shall terminate**, and any Earnest Money delivered shall be refunded to Buyer.
- v. **Extension of Survey Deadlines.** If the New Survey/ILR is timely ordered, and will not be available in time for the parties to conform with the deadlines above, and/or the Settlement/Signing Date, then the parties shall extend those deadlines as necessary to allow for delivery of the New Survey/ILR, Buyer's objection or termination based on the New Survey/ILR, and if applicable, the parties' Resolution of Buyer's objections to the New Survey/ILR.

41. FIRPTA, FIRPTA EXCEPTION AND DELIVERY OF AFFIDAVIT. The Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA") requires buyers who purchase real property from foreign sellers to withhold a portion of the amount realized from the sale of the real property for remittance to the Internal Revenue Service ("IRS") **and makes a buyer potentially liable for a foreign seller's tax obligation if a buyer fails to do so.** Form 2304 – Information Sheet – Foreign Investment in Real Property Tax Act and Taxation of Foreign Persons Receiving Rental Income from U.S. Property.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



- A. **FIRPTA EXCEPTION** (most common): 1) The sales price of the property is not more than **\$300,000**; AND 2) buyer warrants that buyer shall be using the property as buyer's primary residence ("Exception").

NOTE: BOTH 1 AND 2 ABOVE MUST APPLY TO QUALIFY AS AN EXCEPTION.

Exception ☐ does OR ☐ does NOT apply _____ Buyer(s) Initials.

- B. **DELIVERY OF NON-FOREIGN SELLER AFFIDAVIT OR IRS LETTER.** In the event the above Exception to FIRPTA does not apply, then within _____ **DAYS (five [5] if left blank)** prior to the Settlement/Signing Date ("FIRPTA Delivery Deadline"), Seller(s) shall provide to Buyer or to a Qualified Substitute (generally, the Title Company) either a Non-Foreign Seller Affidavit (Form 2303 – FIRPTA – Affidavit – Non-Foreign Seller) OR a letter from the IRS indicating Seller(s) is exempt from withholding ("IRS Letter"). **If Seller is providing the Non-Foreign Seller Affidavit or IRS Letter to the Title Company, it is Buyer's responsibility to confirm prior to Closing that the Title Company will provide a Qualified Substitute Statement ("QSS") to Buyer on or after Closing.**
- C. **BUYER'S RIGHT TO WITHHOLD.** If Seller fails to remit a Non-Foreign Seller Affidavit or IRS Letter to Buyer or to a qualified substitute on or before the FIRPTA Delivery Deadline OR if the Title Company (or other qualified substitute) is unable or unwilling to provide Buyer with a QSS on or after the Settlement/Signing Date, **then Buyer shall have the right to direct the Title Company to withhold the applicable percentage of the amount realized from the sale of the Property.** Form 2303B - FIRPTA Withholding - Buyer Instructions. The Title Company shall remit the amount withheld either directly to the IRS or to the Buyer as determined by the Title Company's policies and/or as directed by the Buyer. For purposes of Buyer's withholding instructions, Buyer's signed written statement that Buyer has not received a Non-Seller Foreign Affidavit from Seller is sufficient for all purposes unless Title Company has conflicting information.
- D. **BROKERS NOT LIABLE.** The brokers/brokerages involved in this transaction shall not be liable to Buyer for any tax liability that Buyer should incur under FIRPTA as a result of Buyer's failure to either obtain a Non-Foreign Seller Affidavit, IRS Letter or QSS, or to direct the Title Company to withhold funds.

42. **SOLE AND SEPARATE.** If Buyer or Seller is married, and a Sole and Separate Agreement is required by the Title Company and/or lender, the applicable party(ies) shall deliver or cause to be delivered a Sole and Separate Agreement to the Title Company identified in herein within _____ **DAYS (ten [10] if left blank)** prior to the Settlement/Signing Date.
43. **PRE-CLOSING WALK-THROUGH.** Within _____ **DAYS (three [3] if left blank)** prior to Settlement/Signing Date, Seller shall allow reasonable access to Buyer to conduct a walk-through of the Property for the purpose of satisfying Buyer that any corrections or repairs agreed to by the Seller have been completed, warranted items are in working condition and the Property is in the same condition as on the Date of Acceptance, reasonable wear and tear excepted. Form 5110 – Walk-Through Statement. Buyer's inspectors, contractors and/or invitees may accompany Buyer to the Walk-Through to confirm the foregoing. If corrections or repairs agreed to by the Seller have not been completed, warranted items are not in working condition and/or the Property is not in the same condition as on the Date of Acceptance, reasonable wear and tear excepted ("Deficiencies"), Buyer shall either proceed to Close subject to the Deficiencies (Form 5110) or provide Seller notice of default and opportunity to cure ("Notice") in accordance with **Para. 49.** (Form 5110). **If Buyer gives Notice, and the Settlement Signing Date is less than two (2) days from the date of Notice, the Settlement/Signing Date shall be extended as necessary to provide Seller two (2) days to cure the Deficiencies, and the parties shall execute an addendum reflecting the extension.** Form 5104 – Extension Agreement Addendum. Notwithstanding the foregoing, if the Property has suffered damage due to fire or other causality, **Para. 54** shall apply.
44. **SETTLEMENT/SIGNING DATE.** *"Closing" is defined as a series of events by which Buyer and Seller satisfy all of their obligations in this Agreement. Closing is not completed until all parties have completed all requirements as stated below, as well as all other obligations under this Agreement. Unless otherwise provided for in this Agreement, any amendment of the following dates **MUST BE** in writing and, signed by both parties. The parties further acknowledge that Seller shall not receive the proceeds of sale until the Funding Date Requirements are satisfied.*
- A. **SETTLEMENT/SIGNING DATE:** On or before the Settlement/Signing date, as set forth in **Para. 1(G)**, the parties shall complete the following:
- Sign and deliver to the responsible closing officer all documents required to complete the transaction and to perform all other Closing obligations of this Agreement; **AND**
 - Provide for the delivery of all required funds, exclusive of lender funds, if any, using wired, certified, or other "ready" funds acceptable to the closing officer.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



- B. FUNDING DATE (Completion of Closing):** _____ On or before the Funding Date the responsible party(ies) shall make all funds available to the Title Company for disbursement in accordance with this Agreement. The **Funding Date Requirements** have been satisfied when:
- i. The closing officer has all funds available to disburse as required by this Agreement; and
 - ii. The closing officer has recorded with the county clerk all required documents.

Seller shall provide all existing keys, gate openers and garage door openers to Buyer once Funding Date Requirements are satisfied or as otherwise provided for in an Occupancy Agreement.

If the Buyer is obtaining a loan (**Para. 8(B)**), it is **Buyer's responsibility** to ensure that Buyer's lender makes available to the Title Company wired, certified or other "ready" funds with written instructions to disburse funds on or before the Funding Date. Unless the Buyer provides a Rejection Letter on or before the Funding Date, the failure of Buyer's lender to make funds available on or before the Funding Date shall be deemed a default of this Agreement by Buyer. To avoid forfeiture of Earnest Money, Buyer must provide the Rejection Letter in accordance with **Para. 8(C)**.

45. POSSESSION DATE AND REMOVAL OF SELLER'S PERSONAL PROPERTY AND GARBAGE.

- A. POSSESSION DATE.** Seller shall deliver possession of the Property to Buyer on the date as set forth below ("Possession Date"):

☐ **At the time Funding Date Requirements are satisfied;** or

☐ **Other:** _____

If Possession Date is other than the time the Funding Date Requirements are satisfied, then Buyer and Seller shall execute a separate written agreement outlining the terms agreed to by the parties. Form 2201 – Occupancy Agreement - Buyer; Form 2202 – Occupancy Agreement – Seller; or Form 6101 – Residential Rental Agreement.

- B. REMOVAL OF PERSONAL PROPERTY AND GARBAGE.** Unless otherwise agreed to in writing, upon Possession Date, or the date the Property is surrendered to Buyer per a Seller Occupancy Agreement, if applicable, Seller shall have all Seller's Personal Property and belongings and all garbage removed from the Property. **Natural debris is not considered garbage under this paragraph and unless otherwise agreed to in writing, Seller is not required to clear natural debris from the Property, provided the natural debris was existing on the Property on the Date of Acceptance.** In the event Seller fails to remove all Personal Property and garbage, the following applies: Buyer shall not be responsible for storage of Seller's Personal Property; Buyer may dispose of Seller's Personal Property in any manner Buyer deems appropriate in Buyer's sole discretion; Buyer shall not be liable to Seller for the value of Seller's Personal Property whether retained or disposed of by Buyer; and Buyer may pursue damages against Seller for the costs involved in disposing of Seller's Personal Property and/or any remaining garbage.

SECTION IV – TERMINATION, DEFAULT AND IMPORTANT MISCELLANEOUS PROVISIONS

- 46. TERMINATION AND DISTRIBUTION OF EARNEST MONEY.** If this Agreement terminates in accordance with the terms of this Agreement or Buyer unilaterally terminates this Agreement in accordance with Buyer's rights hereunder, then within ____ **DAYS (five [5] if left blank)** the parties shall execute Form 5105 – Termination Agreement (Waiver of Specific Performance), and in the event Earnest Money has been delivered to a Title Company/escrow agent, the parties shall execute Form 5105B – Earnest Money Consent to Distribution that provides for distribution of the Earnest Money in accordance with the terms of this Agreement.
- 47. MEDIATION.** If a dispute arises between the parties relating to this Agreement, including a dispute between Seller and Buyer's Brokerage under **Para. 11**, the parties shall submit the dispute to mediation, jointly appoint a mediator and share equally in the costs of the mediation. If a mediator cannot be agreed upon or mediation is unsuccessful, the parties may enforce their rights under this Agreement in any manner provided by law. Form 5118 – Information Sheet - Mediation Information for Clients and Customers.
- 48. EARNEST MONEY DISPUTE.** Generally, title or escrow companies will not release Earnest Money without first receiving either an Earnest Money Distribution Agreement signed by all parties to this Agreement (Form 5105B Earnest Money – Consent to Distribution) or a judgment from a court. If the parties cannot come to an agreement on how the Earnest Money shall be distributed, **Para. 47** shall apply. If the parties cannot reach a resolution through mediation, and proceed to litigation, at the conclusion of litigation the court will issue a judgment apportioning Earnest Money. The parties hereby agree that the Title Company may file an Interpleader Action in an appropriate court (**Para. 53**). Form 2310 – Information Sheet - Earnest Money Dispute.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



- 49. DEFAULT, NOTICE AND OPPORTUNITY TO CURE.** Time is of the essence. Except as otherwise noted herein, any default under this Agreement shall be treated as a material default, regardless of whether the party's action or inaction is specifically classified as a default herein.
- A. Deadline Defaults.** If a party fails to perform by a specified deadline ("Deadline Default"), before exercising any remedy, the non-defaulting party shall deliver the defaulting party written notice specifying the default ("Notice"), and the defaulting party shall be permitted **two (2) days** to cure the default ("Opportunity to Cure"). Form 2112 – Notification of Deadline, Default and Opportunity to Cure. If after Notice and Opportunity to Cure, the defaulting party fails to cure the Deadline Default, the non-defaulting party may elect to cease further performance under this Agreement. In this event, the non-defaulting party may retain the Earnest Money and pursue any additional remedies allowable by law. In the alternative, the non-defaulting party may elect to waive the Deadline Default, in which case, both parties remain responsible for all obligations and retain all rights and remedies available under this Agreement. Form 2351 – Information Sheet – Two Day Notice to Cure.
- B. Other Defaults.** The requirement to provide Notice and Opportunity to Cure only applies to defaults with specific deadlines for performance. For all other defaults, the non-defaulting party may elect to cease further performance under this Agreement without Notice and Opportunity to Cure and to retain the Earnest Money and pursue any additional remedies allowable by law. In the alternative, the non-defaulting party may elect to waive the default, in which case, both parties remain responsible for all obligations and retain all rights and remedies available under this Agreement.
- 50. ATTORNEY FEES AND COSTS.** Should any aspect of this Agreement, including any dispute between Seller and Buyer's Brokerage under **Para. 11**, result in arbitration or litigation, the prevailing party of such action shall be entitled to an award of reasonable attorneys' fees and court costs.
- 51. FAIR HOUSING.** Buyer and Seller understand that the Fair Housing Act and the New Mexico Human Rights Act prohibit discrimination in the sale or financing of housing on the basis of race, age (this covers protection for people with children under age 18 and pregnant women), color, religion, sex, sexual orientation, gender identity, familial status, spousal affiliation, physical or mental handicap, national origin or ancestry.
- 52. COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which is deemed to be an original, and all of which shall together constitute one and the same instrument.
- 53. GOVERNING LAW AND VENUE.** This Agreement, including any dispute between Seller and Buyer's Brokerage under **Para. 11**, is to be construed in accordance with and governed by the internal laws of the State of New Mexico without giving effect to any choice-of-law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of New Mexico to the rights and duties of the parties. Each party hereby irrevocably consents to the jurisdiction and venue of the state and federal courts located in the county in which the Property or any portion of the Property is located in connection with any claim, action, suit, or proceeding relating to this Agreement and agrees that all suits or proceedings relating to this Agreement shall be brought only in such courts.
- 54. RISK OF LOSS.** Seller shall maintain homeowner's or property insurance and liability insurance on the Property through Possession Date. Prior to Funding Date, Seller shall bear the risk of fire or other casualty. In the event of loss, Seller shall provide Buyer with written notification of the loss within **three (3) days** from loss ("Seller's Notification"). Buyer shall have the following options to be exercised within **three (3) days** of Seller's Notification: terminate this Agreement and receive a refund of all Earnest Money delivered; or delay a decision until Seller provides written notification of the amount of insurance proceeds available to cover the loss ("Insurance Notification"). In the event Buyer elects to first receive Insurance Notification, Seller shall work diligently with the insurance company to determine the amount of coverage available, and Buyer shall have **three (3) days** from receipt of the Insurance Notification to: 1) terminate this Agreement and receive a refund of all Earnest Money delivered, or 2) close and receive an assignment of Seller's portion of the insurance proceeds at Closing. If at any point Buyer fails to timely notify Seller of Buyer's election, Buyer shall be deemed to have elected to proceed to Closing and receive an assignment of insurance proceeds, if any. The parties agree that the Settlement/Signing Date shall automatically be extended as necessary to allow Buyer time to exercise Buyer's rights under this Paragraph.
- 55. SEVERABILITY.** If any portion of this Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



- 56. MULTIPLE BUYERS.** Each Buyer to this Agreement is jointly and severally liable for all obligations under this Agreement. In the event any Buyer should be unable to perform under this Agreement (due to death or incapacity), the remaining Buyer(s) shall continue to be obligated under this Agreement.
- 57. AUTHORITY OF SIGNORS.** If Buyer or Seller is a corporation, partnership, estate, trust, limited liability company or other entity, the person signing this Agreement on its behalf warrants their authority to do so and to bind the Buyer or Seller for which they are signing.
- 58. BUYER AND SELLER AUTHORIZATIONS.** Unless otherwise instructed in writing, with respect to the real estate transaction that is the subject of this Agreement, Seller and Buyer hereby authorize the following: the Title Company, lender, escrow agent and their representatives to provide a copy of any and all loan estimates, loan status updates, Closing disclosures, other settlement statements and title documents to the Seller's and Buyer's respective Brokerages; the Title Company to deliver any Title Company generated settlement statement(s), in its entirety (Seller and Buyer's information) to both the Seller and Buyer and their respective Brokerages; and their respective Brokerage to be present for the Closing.
- 59. SURVIVAL OF OBLIGATIONS.**
- A.** The following paragraphs shall survive Closing of the Property: 1, 1(C), 1(J), 4, 5, 11, 12, 14(C), 16, 17(B), 33, 35, 39, 42, 45, 47, 48, 50, 53, 55, 58, 62, 63, 64, 66.
 - B.** Unless otherwise noted on the Termination Agreement or the Earnest Money Consent to Distribution, the following provisions and paragraphs shall survive termination of this Agreement: any provision requiring a party to pay for a document inspection, appraisal, survey or ILR; Buyer's obligation to deliver the entire inspection report in accordance with **Para. 33** upon written request from Seller; the requirement that the parties sign an Earnest Money Consent to Distribution in accordance with **Para. 46**; and paragraphs: 6, 7, 12, 21, 48, 49, 51, 52, 53, 56, 57, 62, 63, 64 and 66.
- 60. FORCE MAJEURE.** Buyer or Seller shall not be required to perform any obligation under this Agreement or be liable to each other for damages so long as performance or non-performance of the obligation or the availability of services, insurance or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, wars, insurrections, acts of terrorism, pandemics or diseases or any governmental authority taken in response to a pandemic. All time periods, including the Closing Date, shall be extended up to **ten (10) days** after the Force Majeure no longer prevents performance under this Agreement, provided, however, if such Force Majeure continues to prevent performance under this Agreement more than **thirty (30) days** beyond the Settlement/Signing Date, then either party may terminate this Agreement by delivering written notice to the other and any Earnest Money delivered shall be refunded to Buyer. This provision applies whether or not the underlying applicable event is foreseeable at the time of execution of this Agreement.
- 61. SIGNIFICANCE OF INITIALS AND SIGNATURES.** Initials signify that the Buyer and/or Seller has reviewed and understands the page or section; initials do not signify acceptance of the terms on the page or in the section. **By their signature hereto, the parties represent that they have reviewed, understand, accept and agree to the terms contained in this Agreement.**

SECTION V – BROKERAGE/BROKER NOTICES

- 62. BUYER AND SELLER OBLIGATIONS AND RESPONSIBILITIES.** The obligations/responsibilities set forth in this Agreement are those of the parties to this Agreement and **NOT** of the brokers/brokerages.
- 63. BROKER/BROKERAGE ROLE.** Buyer and Seller acknowledge that brokerages' only role in this transaction is to provide real estate advice to brokerage's respective client and/or customer and real estate information to the parties. For all other advice or information that may affect this transaction, including, but not limited to, financial and legal advice, the parties shall rely on other professionals.
- 64. SERVICE PROVIDER RECOMMENDATIONS.** If Brokerage(s) recommends a builder, contractor, escrow company, title company, pest control service, appraiser, lender, attorney, accountant, home inspection company or home warranty company or any other person or entity to Seller or Buyer for any purpose, such recommendation shall be independently investigated and evaluated by Seller or Buyer, who hereby acknowledges that any decision to enter into any contractual arrangement with any such person or entity recommended by Brokerage(s) shall be based solely upon such independent investigation and evaluation.



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



SECTION VI – DEFINITIONS

65. DEFINITIONS. The following terms as used herein shall have the following meanings:

- A. ADVERSE MATERIAL FACTS.** Facts that would affect the desirability or value of the Property to a reasonable person.
- B. APPRAISAL:** current estimated market value of the Property as determined by a licensed real estate appraiser. If Buyer is obtaining a loan, the term refers to an appraisal conducted by an appraiser approved by the lender.
- C. BROKERAGE:** includes the Buyer's and Seller's Brokerages.
- D. DATE:** If a specific **DATE** is stated as a deadline in this Agreement, then that date **IS** the **FINAL** day for performance; and if that specific date falls on a Saturday, Sunday or a legal Holiday, the date **does not** extend to the next business day.
- E. DATE OF ACCEPTANCE:** date on which this Agreement is fully executed and delivered by the last party to sign. This date establishes the starting point for stated timelines and deadlines set forth in the Agreement.
- F. DAY(S):** in counting days, the first day following the Date of Acceptance is day number one. Days are determined on a "calendar day" basis and if the **FINAL** day for performance falls on a Saturday, Sunday or legal Holiday, the time therefore shall be extended to the next business day. Legal Holidays are described as New Year's Day, Martin Luther King Jr.'s Birthday, President's Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day/Indigenous Peoples Day, Veteran's Day, Thanksgiving Day and Christmas Day.
- G. DEADLINES:** "deadline(s)" can be expressed either as a calendar date or as a number of days.
- H. DEEDS:**
 - i. General Warranty Deed:** asserts the grantor's lawful ownership of the property and the right to sell, and guarantees that the property is free from any liens or encumbrances, other than those noted on the deed, regardless of when the lien or encumbrance may have originated.
 - ii. Special Warranty Deed:** also known as a 'limited warranty deed,' asserts the grantor's lawful ownership of the property and the right to sell, and guarantees that the property is free from any liens or encumbrances, other than those noted on the deed, arising during the grantor's period of ownership. The grantor does not provide any guarantee against defects in the title that may have originated **before** the grantor owned the property.
 - iii. Quitclaim Deed:** transfers property ownership without the grantor making any warranties regarding the title.
- I. DELIVER(ED):** by any method where there is evidence of delivery. By the parties' agreement to the electronic transmission of documents, a facsimile or e-mail transmission of a copy of this or any related document shall constitute delivery of that document. When an item is delivered to the real estate Broker who represents the Buyer or Seller, it is considered delivered to the Buyer or Seller respectively, except if the same Broker represents both Buyer and Seller, in which case, delivery must be made to Buyer or Seller, as applicable. Notwithstanding the foregoing, in the case of Independent Consideration, delivery to Seller's Broker/Brokerage identified on Cover Page 3 shall constitute delivery to Seller.
- J. ELECTRONIC RECORD/SIGNATURE:** relating to technology having electrical, digital, magnetic, wireless, telephonic, optical, electromagnetic or similar capabilities and includes, but is not limited to, facsimile and e-mail; a record created, generated, sent, communicated, received or stored by electronic means. An Electronic Signature is 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.
- K. EXPIRATION DATE:** means the date the party is revoking their offer or counteroffer. An offer is no longer capable of acceptance after it expires, consequently, if the party intends to accept the offer or counteroffer, it must be accepted before the Expiration Date. If a party intends to make a counteroffer, it does not need to be made by the Expiration Date because a counteroffer serves as both a rejection of the original offer (or counteroffer) **AND** as a new offer.
- L. FIXTURE:** an article, which was once Personal Property, but which has now become a part of the Property as a result of it being fastened/affixed to the Property in such a way that removal of the article causes damage to the real property, even if such damage is minor and/or can be repaired. If a unit contains components, some of which are Fixtures and others that are Personal Property, and a Fixture component of the unit relies on one or more Personal Property components to function as it is intended to do so, then **ALL** components together are considered a Fixture and shall remain together, unless otherwise provided herein.
- M. INDEPENDENT CONSIDERATION:** refers to something of value that is exchanged between the parties to this Agreement to ensure mutual obligation and enforceability of this Agreement. It requires each party to provide a distinct and separate benefit or promise, making this Agreement legally binding. Seller's "something of value" hereunder, which is recognized as sufficient consideration, is Seller's promise to sell the Property and to grant Buyer the option to purchase the Property in accordance with the terms of this Agreement. Buyer's "something of value", which is recognized as sufficient consideration, is the Independent Consideration set forth in **Para. 1(E)**. The Buyer's promise



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



to pay the Independent Consideration by the date set forth in **Para. 7** is sufficient consideration to create a legally binding contract from the time of full execution of this Agreement to the time of delivery of the Independent Consideration. The amount of the Independent Consideration is negotiable, but must be greater than zero. Failure of Buyer to pay/deliver Independent Consideration in accordance with **Para. 7** shall render this Agreement immediately invalid and unenforceable.

- N. LOAN ESTIMATE:** a standardized, three-page form that a mortgage lender is required to provide a Buyer within **three (3) business days** of receiving the loan application. It outlines the estimated terms, interest rate, monthly payment, and closing costs of the mortgage for which the Buyer is applying.
- O. PERSONAL PROPERTY:** a moveable article that is NOT affixed/attached to the Property.
- P. PROOF OF FUNDS:** verifiable evidence of Readily Available Funds sufficient to Close on the Property.
- Q. READILY AVAILABLE FUNDS:** funds that are liquid and held in cash or cash-equivalent accounts (e.g., checking, savings, money market); that are within Buyer's possession or control; that are not subject to market fluctuation; and to which access is not subject to withdrawal restrictions, or third-party approval.
- R. RESOLUTION:** a written agreement between the parties regarding how Buyer's objections shall be resolved.
- S. SINGULAR:** includes the plural.
- T. STANDARD EXCEPTIONS:** those common risks as set forth in the title commitment for which the title insurance policy does NOT provide coverage. These exceptions are pre-printed, universal exclusions from coverage for risks not shown in public records. For some of the exceptions, the Title Company may delete the exception and provide the insured with additional/extended coverage if additional specific requirements are met.

SECTION VII– OFFER, ACCEPTANCE, COUNTEROFFER, OR REJECTION OF OFFER

- 66. ACCEPTANCE, ENTIRE AGREEMENT, ADDENDUMS IN WRITING.** This offer is not considered accepted until fully executed by the Seller and delivered to the Buyer. Once fully executed and delivered, the parties have a legally binding contract. This Agreement, together with any addenda and any exhibits referred to in this Agreement, contains the entire Agreement of the parties and supersedes all prior agreements with respect to the Property, which are not expressly set forth herein.

ATTENTION BUYERS AND SELLERS

WIRE FRAUD ALERT

- **Criminals are hacking email accounts of real estate Brokers, title companies, settlement attorneys and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal.**
- **The emails look legitimate, but they are not.**
- **Buyer and Seller are advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing number and the account number.**
- **Buyer and Seller should NOT send personal information such as social security numbers, bank account numbers and credit card numbers except through secured email or personal delivery to the intended recipient.**

OFFER BY BUYER

BUYER ACKNOWLEDGES THAT BUYER HAS READ THE ENTIRE AGREEMENT AND UNDERSTANDS THE PROVISIONS HEREOF.

Buyer Signature _____ Printed Name _____ Offer Date _____ Time _____

Buyer Signature _____ Printed Name _____ Offer Date _____ Time _____

If additional signature lines are needed, please use Form 1150 – Signature Addendum



NEW MEXICO ASSOCIATION OF REALTORS® — 2026
PURCHASE AGREEMENT – RESIDENTIAL RESALE



SELLER'S RESPONSE

SELLER ACKNOWLEDGES THAT SELLER HAS READ THIS ENTIRE AGREEMENT AND UNDERSTANDS THE PROVISIONS HEREOF. (SELLER SHOULD SELECT ONE)

ACCEPTANCE

SELLER ACCEPTS this Offer and **AGREES** to sell the Property for the price and on the terms and conditions specified in this Agreement. **IF SELLER IS ACCEPTING THIS OFFER, SELLER SHOULD INITIAL ALL PAGES AND SIGN BELOW.**

SELLER(S)

Seller Signature

Printed Name

Date

Time

Seller Signature

Printed Name

Date

Time

If additional signatures are needed, use Form 1150- Signature Addendum

COUNTEROFFER

SELLER REJECTS and submits a **Counteroffer** - Form 5102 – Counteroffer or Form 2111B – Counteroffer to Escalation Clause Offer

IF SELLER IS REJECTING THIS OFFER AND SUBMITTING A COUNTEROFFER, SELLER SHOULD NOT SIGN THIS AGREEMENT, BUT SHOULD INITIAL ALL PAGES AND INITIAL BELOW.

SELLER(S) _____

NOTIFICATION OF MULTIPLE OFFERS

SELLER REJECTS and submits a **Notification of Multiple Offers** - Form 5103 – Notification of Multiple Offers

IF SELLER IS REJECTING THIS OFFER AND SUBMITTING A NOTIFICATION OF MULTIPLE OFFERS, SELLER SHOULD NOT SIGN THIS AGREEMENT AND DOES NOT NEED TO INITIAL ANY / ALL PAGES, BUT SHOULD INITIAL BELOW.

SELLER(S) _____

REJECTION

SELLER REJECTS THIS OFFER.

IF SELLER IS REJECTING THIS OFFER, SELLER SHOULD NOT SIGN THIS AGREEMENT AND DOES NOT NEED TO INITIAL ANY/ALL PAGES, BUT SHOULD INITIAL BELOW.

SELLER(S) _____



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 PURCHASE AGREEMENT – RESIDENTIAL RESALE



INDEX

TITLE	PARA. NO.	PAGE
ACCEPTANCE, ENTIRE AGREEMENT, ADDENDUMS IN WRITING	66	22
ADVERSE MATERIAL FACTS (“AMF”) / NEWLY DISCOVERED AMF	17, 34	9, 14
APPRAISAL	10	5
ASSIGNMENT	14	8
ATTORNEY FEES AND COSTS	50	19
AUTHORITY OF SIGNORS	57	20
BROKER / BROKERAGE ROLE	63	20
BUYER AND SELLER AUTHORIZATIONS	58	20
BUYER AND SELLER OBLIGATIONS AND RESPONSIBILITIES	62	20
BUYER’S BROKERAGE COMPENSATION	11	6
BUYER’S ENTRY	21	10
BUYER’S SALE, CLOSING, FUNDING CONTINGENCY	9	5
CASH, LOAN OR SELLER FINANCING	8	4
CONVEYANCE DOCUMENTS	39	15
COSTS TO BE PAID	12	7
COUNTERPARTS	52	19
DEFAULT, NOTICE AND OPPORTUNITY TO CURE	49	18
DEFINITIONS	65	20
EARNEST MONEY	1(D),6	1, 3
EARNEST MONEY – DISPUTE, TERMINATION AND DISTRIBUTION	46, 48	18
ELECTRONIC SIGNATURES	14	8
EXISTING DOCUMENT DELIVERY DEADLINE	32	12
FAIR HOUSING	51	19
FIRPTA AND FIRPTA EXCEPTION	41	16
FIXTURES, APPLIANCES, AND PERSONAL PROPERTY	4	1
FORCE MAJEURE	60	20
FUNDING DATE	44	17
GOVERNING LAW AND VENUE	53	19
HOME WARRANTY CONTRACT	35	14
INCORPORATED DOCUMENTS / ADDENDA	13	8
INDEPENDENT CONSIDERATION	7	3
INSPECTION/ DOCUMENTS/ DUE DILIGENCE OBJECTION AND RESOLUTION	33	12
INSURANCE CONTINGENCY / APPLICATION	18	9
IRS 1031 TAX EXCHANGE	14	8
MAINTENANCE	16	9
MEDIATION	47	18
MULTIPLE BUYERS	56	19
OFF MARKET	2	1
OTHER RIGHTS	5	2
PARTIES, PROPERTY AND TERMS	1	1
POSSESSION DATE	45	18
PROPERTY TYPE	3	1
RISK OF LOSS	54	19
SELLER’S DUTY TO DISCLOSE	17	9
SERVICE PROVIDER RECOMMENDATIONS	64	20
SEVERABILITY	55	19
SIGNIFICANCE OF INITIALS	61	20
SOLE AND SEPARATE	42	17
SURVEY / ILR	39	15
SURVIVAL OF OBLIGATIONS	59	20
TERMINATION	46	18
TITLE – EXAMINATION, LIENS, AND ASSESSMENTS	37	14
TITLE COMPANY	36	14
UTILITIES – AVAILABILITY FOR INSPECTIONS	22	11
WAIVER OF INSPECTIONS	20	10



NEW MEXICO ASSOCIATION OF REALTORS®– 2026
SELLER'S INSTRUCTIONS TO TITLE COMPANY
FOR DISBURSEMENT OF INDEPENDENT CONSIDERATION



Relating to the Purchase Agreement dated _____ between the parties

(Buyer) and

(Seller) on the
following property: _____
Address (Street, City, Zip Code)

Legal Description _____

NAME OF TITLE COMPANY _____

NAME OF ESCROW OFFICER: _____

1. PARTIES AGREEMENT. Pursuant to the above-referenced Purchase Agreement, the Buyer and Seller have agreed as follows:

- that Buyer shall pay to Seller \$ _____ as Independent Consideration;
- that Buyer shall deliver this Independent Consideration to Title Company;
- that Title Company may disburse the Independent Consideration in accordance with these Seller instructions;
- that these Seller's Instructions ONLY require the Seller's signature(s); and
- that no further disbursement agreement between Buyer and Seller (beyond the Purchase Agreement) is required for the Title Company to disburse the Independent Consideration to Seller in accordance with these instructions.

2. SELLER'S DISBURSEMENT INSTRUCTIONS. Seller hereby directs Title Company:

- A. To disburse the Independent Consideration as soon as practical. If Independent Consideration is paid by readily available funds, the payment shall be disbursed as soon as the payment is processed. If Independent Consideration is paid by check, then the payment shall be paid as soon as the check has cleared the Buyer's bank and been processed by the Title Company.
- B. To disburse the Independent Consideration to Seller by (check applicable):
☐ Check; ☐ Wire Transfer; or ☐ Other _____.

NOTICE TO SELLER: you must confirm with Title Company that Title Company can disburse by your elected disbursement method and any charges associated with such disbursement method.

- i. Any Title Company disbursement charges shall be deducted from the Independent Consideration before disbursement. If Title Company disbursement charges are greater than the amount of Independent Consideration received by the Title Company, then notwithstanding the foregoing, the Title Company shall disburse by a less expensive method; for example, disbursement by check instead of wire transfer.

IMPORTANT REMINDER TO SELLER ABOUT WIRE FRAUD: The Title Company will need additional wire-transfer information from you. Do NOT wire any funds without personally speaking with the Title Company to confirm the Title Company's routing and account number. For more information, see NMAR Form 2000 – Wire Fraud Notice.

- ii. If disbursement is paid by check, Seller's address for mailing: _____

3. INDEPENDENT CONSIDERATION CREDITS AT CLOSING. Whether the Independent Consideration payment will be credited to the Purchase Price, Down Payment or Closing Costs is set forth in the Purchase Agreement.

SELLER (S)

Seller Signature _____ Printed Name _____ Date _____ Time _____

Seller Signature _____ Printed Name _____ Date _____ Time _____

If additional signature lines are needed, please use NMAR Form 1150 – Signature Addendum

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NEW MEXICO ASSOCIATION OF REALTORS® — 2026
RECEIPT FOR INDEPENDENT CONSIDERATION



BUYER: _____
Print

SELLER: _____
Print

PROPERTY:

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

Legal Description
or see metes and bounds description attached as Exhibit _____, _____ County(ies), New Mexico.

AMOUNT OF INDEPENDENT CONSIDERATION: \$ _____

RECEIVED IN THE FORM OF:

☐ PERSONAL CHECK - Check No. _____

☐ BANK CHECK Check No. _____

☐ CASH

☐ MONEY ORDER - Order No. _____

☐ ELECTRONICALLY

Through - Name of Platform (optional):

☐ Venmo ☐ Paypal ☐ Zelle ☐ Cash App ☐ Other: _____

☐ OTHER _____

Received By: _____

Per the NMAR Purchase Agreement, unless otherwise modified in the Purchase Agreement, delivery of Independent Consideration to the Listing Brokerage constitutes delivery to Seller.

Name of Receiving Listing Broker or Listing Brokerage Representative Signature Time Date

Seller Signature Printed Name Time Date

Seller Signature Printed Name Time Date

If additional signature lines are needed, please use NMAR Form 1150 – Signature Addendum

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NEW MEXICO ASSOCIATION OF REALTORS® — 2026 INFORMATION SHEET –



TWO-DAY NOTICE TO CURE - DEADLINE DEFAULT PROVISION

This opportunity to cure provision requires that if a Deadline Default occurs, the non-defaulting party must serve the defaulting party with a two-day notice to cure, NMAR Form 2112 – Notification of Deadline Default and Opportunity to Cure (“2-Day Notice”). If the defaulting party cures the default within the two (2) days, the non-defaulting party must proceed with performance under the Agreement; however, if the defaulting party fails to cure the default within the two (2) days, the non-defaulting party has all options available by the contract and the law, which may include, but not limited to, the recovery of damages and in the event of a material default, the option to stop performing and terminate the contract. In the case of a material buyer default, which the buyer fails to timely cure, the seller would have the right to retain the earnest money.

ELEMENTS OF A DEADLINE DEFAULT:

1. **THERE MUST BE A DEADLINE.** First, there must be a date and/or time by which one party has to perform. Examples of defaults with a deadline include (but are not limited to):
 - the buyer’s obligation to deposit Earnest Money by a certain date;
 - the buyer’s obligation to deliver the pre-qualification letter or proof of funds by a certain date;
 - the seller’s obligation to deliver a document by a certain date;
 - a party’s failure to close by the Closing Date may be considered a Deadline Default if the failure to close is not based on the failure of a contingency to be satisfied.

Some defaults cannot be cured. For example, NMAR Form 2104 – Purchase Agreement – Residential Resale provides that the buyer and buyer’s broker will not enter upon the Property without the seller or listing broker’s consent. If the buyer or buyer’s broker should do so, then that would be a default of the Agreement, but not a default that that can be cured with a 2-Day Notice.

2. **THE FAILURE TO PERFORM BY THE DEADLINE MUST CONSTITUTE A DEFAULT.** Whether a failure to perform by a deadline is a default (or not), depends on a couple of factors.
 - **Is the performance an obligation or a right?**
 - **If it’s an obligation (and therefore, required), then failure to perform constitutes a default.** It is often “required” if the beneficiary of the performance is NOT the party responsible for the performance. For example, the seller is to provide the buyer with the documents. These documents are provided *by the seller for the benefit of the buyer*. Therefore, performance by the seller is an obligation and is required (unless waived by the buyer).
 - **If it’s a right, then failure to perform may constitute a waiver of that right, but failure to perform would not be considered a default.** It is often a right, and therefore, “optional” if the beneficiary of the performance is the same party charged with performing. Examples of a right or option to perform include the buyer’s right to conduct inspections and the buyer’s right to object to observations, inspections or documents. These rights under the Purchase Agreement are to be performed *by the buyer for the benefit of the buyer*. They are optional, not required. Therefore, a buyer’s failure to timely exercise any of these rights is not a default, but rather a waiver of the buyer’s right to make objections or terminate, as applicable.
 - **Does the missed deadline result in an automatic termination?**

In the event the missed deadline results in an automatic termination, neither party is required/obligated to perform, neither party has a right to perform and the failure of one or both parties to perform is not a default. For example, if the parties do not reach a Resolution by the Resolution Deadline, and the buyer does not withdraw all unresolved objections within two (2) days, the Agreement terminates. The parties are not obligated to reach an agreement and failure to do so does not constitute a waiver of a right or a default. Therefore, the Deadline Default would not be applicable to these situations.

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NEW MEXICO ASSOCIATION OF REALTORS® — 2026
INFORMATION SHEET –
TWO-DAY NOTICE TO CURE - DEADLINE DEFAULT PROVISION



Additional Comments:

- The non-defaulting party may choose NOT to send the 2-Day Notice. Nothing requires the non-defaulting party to send the 2-Day Notice, but if they do not send it, **then the non-defaulting party is not afforded the rights associated with the default.** For example, if a buyer materially defaults, a seller may have the right to refuse to sell the house to that buyer and/or may choose to sue the buyer for damages, but the seller may be denied these rights if the seller failed to give the buyer the opportunity to cure the default. And again, if the buyer did timely cure the default, the seller would have no further recourse, but if the buyer failed to timely cure the default, then the seller could pursue all legal options available to them.
- The Purchase Agreement does not require that the 2-Day Notice be sent within a certain time frame. Consequently, if a Deadline/Curable Default occurs, the non-defaulting party may send the 2-Day Notice at **any point** after the default, and regardless of when it is sent, the two (2) days starts running.
- Note the definition of days in NMAR Purchase Agreements. Days are counted as calendar days, but if the final day for performance falls on a weekend or legal holiday, then the deadline rolls over to the next business day. See “Definitions” in the Purchase Agreements for a list of the legal holidays.

IMPORTANT NOTE REGARDING INDEPENDENT CONSIDERATION

The Deadline Default provisions of the Purchase Agreement do NOT apply to the buyer’s failure to deliver Independent Consideration when due.

Delivery of Independent Consideration on or before the date provided in the Purchase Agreement (“IC Delivery Deadline”) is required for the Purchase Agreement to remain valid and enforceable after the IC Delivery Deadline. Failure to deliver the Independent Consideration on or before the IC Delivery Deadline renders the Purchase Agreement immediately null and void, except as otherwise provided for in the Purchase Agreement. Therefore, failure to deliver the Independent Consideration by the IC Delivery Deadline is NOT a Deadline Default and the buyer shall have NO opportunity to cure buyer’s failure to deliver the Independent Consideration by the IC Delivery Deadline.