



Don't Ignore

YOU NEED TO KNOW!

GTAR Contract Guide

The Offer

Negotiations to purchase a home begin when the Buyer makes a written offer to purchase the Seller's home. Rather than accepting the offer, the Seller may make a counter-offer to the Buyer. The offer may go back and forth until all terms have been agreed to in writing by both parties and the document delivered to both Buyer and Seller or their Broker as authorized.



At this point, the offer becomes a Contract.

During the offer/counter-offer process, the listing broker is required by law to continue presenting all offers to the Seller.

Further, **during the offer/counter-offer process, Seller may withdraw his counter-offer and accept another contract. Likewise, Buyer may withdraw his counter-offer and purchase a different property.**

The Contract

Sale

The Contract begins by naming the parties (Buyer and Seller) and describing the Property that is being purchased.

Purchase Price

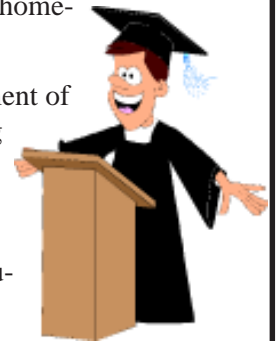
Paragraph 2 of the Contract sets out the purchase price, the earnest money and how the balance of the purchase price is to be paid. The earnest money will be deposited in the Listing Broker's escrow account immediately following a fully executed and delivered Contract. At closing, the balance of the purchase price shall be paid in cash, cashier's or certified check, or other funds acceptable to the Seller. This paragraph also authorizes the listing broker to donate any interest earned on the earnest money to the GTAR Foundation.



GTAR Foundation.

Established by the Greater Tulsa Association of REALTORS®, the

GTAR non-profit Foundation donates funds to charities for education, research and housing assistance for the homeless.



The establishment of an interest-bearing trust account is through a special arrangement with the financial institutions. Generally, establishing an interest-bearing trust account is cost prohibitive for the broker. If the broker does not participate in the GTAR Foundation, escrow funds are generally deposited in a non-interest bearing trust account.

Personal Property/ Fixtures

The Contract provides that all existing fixtures and fittings attached to the Property are included in the purchase price (unless excluded by the Seller). The Contract also lists several items (attached and unattached) that are included.

If there are additional items the Buyer wants included, **they should**

be specifically listed under **“Other Items Included (if any).”** The Seller is bound only by what is stated in the Contract, and **Buyer should not rely on anything other than what is written in the Contract.**

If there are items the Seller is not including in the purchase price, **they should be specifically listed under “Items Excluded (if any).”**

Financing

If a mortgage loan is needed for the purchase of the Property, a Financing Supplemental Agreement will be attached to and become a part of the Contract. The provisions of the Financing Supplemental Agreement are covered on pages 11 and 12 of this brochure.

Effective Date of Time Periods

All Contract time periods commence on the date stated in the paragraph **“Effective Date of Time Periods Specified in Contract”** (hereinafter referred to as **“Effective Date”**). Day one will be the day immediately following the date stated in this paragraph.

Disclosure, Disclaimer, Inspections and Investigations

Inspection, Investigation and Review Time Period. The Buyer has **10 days** from the **“Effective Date”** to review the Seller’s Disclosure or Disclaimer Statement.

During this same period, Buyer, at Buyer’s expense, has the right to have a registered professional engineer, architect, Oklahoma licensed home inspector and/or professional craftsman conduct the inspections described later in this pamphlet.

It is recommended that Buyer exercise these rights and that Buyer make Buyer’s own selection of professionals with appropriate qualifications to conduct inspections of the entire property.

Professionals conducting inspections **may have several levels of inspection service for different fees. It is the Buyer’s responsibility to contact the inspector(s) of Buyer’s choice to review and select the inspection level Buyer desires.**

It is Buyer’s responsibility to have the following inspections made. Buyer should accompany the inspector during the inspection. Buyer should **NOT** rely on the REALTOR®, a friend, or themselves to make this inspection.

If brokers give the Buyer or Seller information regarding professional persons, services, inspectors or product providers (“Providers”), all parties are advised that:

A. Brokers do not guarantee the performance of any Providers.

B. The Buyer and Seller are free to select Providers other than those given by the brokers. “Providers” include but are not limited to: lenders, title insurers, closing companies, property hazard insurers, attorneys, inspectors, pest control companies, contractors, and home warranty

companies.

Seller’s Disclosure/Disclaimer Statement Receipt and Review

Under Oklahoma law, the Seller must complete, sign and provide to the Buyer an Oklahoma Real Estate



Commission (OREC) Residential Property Condition Disclosure Statement. This Disclosure Statement concerns the condition of the property and must be delivered to the Buyer prior to acceptance by Seller of Buyer’s offer to purchase.

Further, the real estate broker is obligated to disclose to the Buyer any defects in the property actually known to the broker which are not included in the Seller’s Disclosure.

If the Seller has never lived in the property **AND** has no knowledge of any defects, the law provides that the Seller can deliver an OREC Disclaimer Statement in lieu of the Disclosure Statement.

The Disclosure or Disclaimer Statement **does not apply** to residential new construction or vacant land. It also **does not apply** to certain other properties (such as government owned and foreclosures).

Flood, Storm, Run Off Water, Storm Sewer Backup or Water History



Flood Notice. The City of Tulsa has an Ordinance that requires a Seller to notify a Buyer if the Seller's property is located in an area designated by the City as a flood hazard area. Other cities may have similar ordinances. Seller will need to contact the city officials where his property is located to determine whether there is a similar flood notification ordinance.

It is Buyer's responsibility to investigate the Property's flood, storm run off water, storm sewer backup or water history. To obtain a written Flood Hazard Evaluation, contact the Corps of Engineers. The customary cost of the Evaluation is \$25 or \$55. The Buyer can also call and make an appointment to visit the Corps of Engineers office and examine the maps and information. Phone: (918) 669-7197.

The Corps of Engineers handles all of the state of Oklahoma, and there are Floodplain Administrators in every community. The Corps of Engineers can supply the Buyer with the name and phone number of the Floodplain Administrator in the community where the property is located. Phone: (918) 669-7197.

For more information on the nature of the water condition as it relates to the Property being

purchased, Buyer can also contact:

- 1) (In Tulsa) Mayor's Action Center - 596-2100
- 2) City or County Engineer's Office.
- 3) Neighbors to determine if they have noticed any water problems.

Flood Insurance. If there is a flood risk, the Lender may require the Buyer to obtain federal flood insurance. Flood insurance may also be purchased on personal property (carpets, drapes, furniture, etc.), and the Buyer should seek advice from an insurance agent.

Psychologically Impacted Property

Psychologically impacted property is any property where certain circumstances, suspicions or facts may create emotional or psychological disturbances or concerns to a Buyer. If this is of concern to the Buyer, the law requires that the REALTOR® adhere to the following procedure:

1. The Buyer must be in the process of making a bona fide offer.
2. The REALTOR® must receive a request in writing from the Buyer.
3. The Buyer's written request must state that such factor is important to the decision of the Buyer.
4. The REALTOR® shall make inquiry of the owner by submitting the written request to the owner.
5. With the consent of the Seller, the REALTOR® will furnish the Seller's response to the Buyer or Buyer's Broker.
6. If the Seller refuses to furnish the information requested, Seller's

REALTOR® shall so advise the Buyer or Buyer's Broker.

7. If the Buyer is requesting information concerning Acquired Immune Deficiency Syndrome (AIDS) or any other disease which falls under the privacy laws, the information can only be obtained in accordance with the Public Health and Safety Statute, Title 63, O.S., 1992, Section 1-502.2A.

Megan's Law

Oklahoma has enacted a law that requires law enforcement officials to notify the residents when a habitual sex offender convicted of certain sex crimes moves into their neighborhood. The record keeping and notification cover only those crimes committed since 1989.

The Buyer can obtain a list of the known sex offenders living in Tulsa and their addresses on the Tulsa Police Department's Internet Web site, (www.tulsapolice.org). For cities other than Tulsa, contact the local police department or the Department of Corrections (405) 425-2500.

Hazard Insurance

(Property Insurability)

Within 10 days of the "Effective Date," Buyer shall obtain a commitment for hazard insurance from an insurance carrier.

All explanations, representations and disclosures concerning the terms, conditions and provisions of a commitment for hazard insurance coverage and/or hazard insurance policy are the responsibility of the Buyer's insurance agent and not of the Seller, brokers or their sales associates.

Environmental Risks

It is Buyer's responsibility to determine whether there are environmental hazards such as hydrocarbon, chemical, carbon, asbestos, mold, methamphetamine, radon gas, lead-based paint, or any other toxic materials that are of concern.



The Tulsa and Broken Arrow police departments' Web sites have the location of properties where they have found a methamphetamine (Meth) lab on the premises. (See Web sites below) <http://www.tulsapolice.org/sid.html> <http://www.brokenarrowok.gov> (Click on Broken Arrow police)

Buyer can call the Department of Environmental Quality (DEQ) (918) 293-1600, for further information. Buyer can also go to the DEQ Web site: www.deq.state.ok.us for a list of lead-based paint inspectors (some of whom also do mold inspections) or the Environmental Protection Agency (EPA) Web site: <http://www.epa.gov/iaq/pubs/index.html> for EPA publications on mold, asbestos and radon gas. An information pamphlet on Methamphetamine is also available on the Oklahoma Real Estate Commission's Web site: www.orec.state.ok.us

With regard to **properties built BEFORE 1978**, the HUD regulations require that the Buyer receive the Seller's "**Disclosure of Information on Lead-Based Paint and Lead-Based Hazards**," the EPA booklet entitled "**Protect Your Family From**

Lead in Your Home," and the following written warning:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Roof

Buyer, at Buyer's expense, has the right to have the roof structural members, roof decking, and cover (shingles, slate, tile) inspected by a qualified inspector.

Structure

Buyer, at Buyer's expense, has the right to have the Property inspected for structural defects by a licensed architect or a registered professional engineer, selected by Buyer, or such other professional

craftsmen as Buyer may deem necessary.

Buyer should confirm that the structural inspection includes, but is not necessarily limited to: foundation, framing, moisture infiltration, heating/cooling duct system, roof and swimming pool/spa.

Fixtures, Equipment & Systems

It is **not** the intent and the Contract does **not** require that the property be brought up to the current Code. However, the Contract does provide that Buyer, at Buyer's expense shall have the right to have all the fixtures, equipment and systems relating to: plumbing (including sewer/septic system and water supply), heating and cooling, electrical systems, built-in appliances, swimming pool/spa, sprinkler systems, and security systems inspected by a qualified inspector.

If the Property is not connected to a public sewer system (property that is on a septic tank or lagoon system), Buyer should have the system inspected by a qualified expert. The Buyer can also contact the Department of Environmental Quality (DEQ) for septic tank information, (918) 293-1600 or your local DEQ office.

Wood Destroying Organisms

The Buyer shall have **10 days** from the "**Effective Date**," to have the Property inspected by Buyer's choice of a licensed exterminating company and to deliver to Seller, in care of the Listing Broker, a HUD approved infestation report.



The Buyer shall pay for the report, except in a VA-financed transaction, in which case the Seller shall pay the cost of the report.

Buyer's Responsibility

It is Buyer's responsibility to have these inspections made. Buyer should accompany the inspector during the inspection. Buyer should **NOT** rely on the REALTOR®, friend, or themselves to make these inspections.

Square Footage

As there is no standardized method for measuring square footage, County Assessor's records, appraisal reports, appraisal square footage measurement reports, etc. can vary from a few feet to several hundred feet.

It is Buyer's responsibility to satisfy him/herself that the size and/or square footage of the dwelling is acceptable to Buyer.

Buyer's Options

If Buyer has any objections to the Property based on the above inspections and investigations, Buyer has the right to request the Seller to repair and/or replace and treat those items not in normal working order (defined as the system or component functions without defect for the primary purpose and manner for which it was installed. Defect means a condition, malfunction or problem, which is not decorative, that would have a materially adverse effect on the value of a system or component, or would impair the health or safety of the occupants or Buyer) and/or Buyer may cancel the Contract as outlined below:

● *Option 1 - Buyer's Right to Request Repairs Replacement, Treatments*

In the event Buyer elects to request Seller to make repairs and/or replacement and treatments, Buyer shall submit to Seller, in care of the Listing Broker, **within 24 hours after the expiration of the 10-day time period specified in the Contract**, a "*Repair, Replacement and Treatments*" Supplemental Agreement specifying those items the Buyer desires Seller to repair and/or replace, or treat, along with a copy of all inspection reports.

Within **5 days of receipt** of Buyer's "*Repair, Replacement and Treatments*" Supplemental Agreement, Seller shall obtain estimates for cost of repairs and/or replacement and treatments. The Contract provides that Buyer shall pay the first 1/4 of 1% of the Contract purchase price for the repair and replacement and treatment cost. Seller shall pay the cost in excess of this amount up to a maximum stated in the Contract.

In the event the cost of repair and/or replacement and treatments exceeds the maximum set out in the Contract, Seller has the option to cancel the Contract **within 48 hours of being advised of such estimate**, unless Buyer agrees in writing to pay the cost in excess of Seller's maximum amount.

● *Option 2 - Buyer's Right to Cancel the Contract*

If Buyer elects to cancel the Contract based on the results and findings of the inspections and investigations described in the Paragraph entitled "*Disclaimer, Disclosure, Inspections,*" Buyer shall deliver written notice stating

Buyer's objections to the Property to Seller, in care of the Listing Broker, **within 24 hours after the expiration of the 10-day time period specified in the Contract**, in which event the Contract shall be null and void.

Regardless of whether Buyer investigates and/or has inspections of the Property performed, if Buyer fails to deliver the above written notice to Seller, in care of the Listing Broker, **within 24 hours after the expiration of the 10-day time period specified in the Contract**, the Buyer accepts the Property in the condition or state which existed at the expiration of the time period.

If Buyer does not exercise Buyer's right to cancel the Contract based on inability to obtain acceptable hazard insurance coverage, by delivering written notice to Seller, in care of the Listing Broker, **within 24 hours after the expiration of the 10-day time period specified in the Contract**, or Buyer fails to obtain a loan based on unavailability of hazard insurance coverage, Buyer shall proceed to Closing, regardless of the unavailability of hazard insurance coverage, **or be subject to the breach and failure to close** provisions of the Contract.

If Buyer does not exercise Buyer's right to cancel the Contract based on the size/square footage of the dwelling by delivering written notice to Seller, in care of the Listing Broker, **within 24 hours after the expiration of the 10-day time period specified in the Contract** and any subsequent appraisal reflects the size/square footage of the dwelling to be less or more than Buyer

understood it to be, Buyer shall proceed to Closing, regardless of such appraisal, **or be subject to the breach and failure to close** provisions of the Contract.

Cost of Inspections & Reinspections

The Buyer pays the cost of all inspections and reinspections unless prohibited by the mortgage underwriter.

Delivery of Property Inspection Reports & Test Results

As provided in the Contract, Buyer will deliver a copy of every written inspection report concerning the Property to the Seller, in care of the Listing Broker.

Risk of Loss



Until the Closing or transfer of possession, the risk of loss to the Property, except for ordinary wear and tear, is the Seller's. After Closing or transfer of possession, the risk is the Buyer's.

If transfer of title and possession do not occur at the same time, Buyer and Seller are advised to seek

the advice of their insurance agents concerning the insurance consequences.

Acceptance of Property

By closing the sale or by taking possession of the Property, Buyer has accepted the Property in its then condition.

Title/Closing

Buyer has agreed to pay the balance of the purchase price with cash, cashier's or certified check, or other funds acceptable to the Seller. Buyer needs to be aware, however, that **payment of the balance by the following will NOT be accepted by the Closing Company:**

Personal Check
Corporate Check
Employer's Check
Investment Account
Check
Asset Management
Check

It is recommended that **Buyer contact the Closing Company prior to the Closing to determine the acceptable form of payment for the balance of the purchase price Buyer needs to bring to the Closing.** Buyer will also **need to bring photo identification** (i.e. Driver's License, etc.) to the Closing.

The proceeds Seller receives from the Closing are generally paid by the Closing Company's check. A Closing Company's check does not have the assurance that it will be cashed by the bank as readily as a cashier's check. **The bank may**

not release the funds to the Seller until the Closing Company's check clears. If Seller prefers a cashier's check Seller should **contact the Closing Company at least 48 hours prior to the closing and request that Seller's proceeds be paid by cashier's check.**

No later than ten (10) days prior to Closing, the Seller, at Seller's expense, will furnish Buyer (or Buyer's lender) a current Uniform Commercial Code Search Certificate, abstract of title certified to a date at least within 180 days of the Closing, and, if required by the lender, a Mortgage Inspection Certificate prepared by a Professional Land Surveyor. Buyer shall have **ten (10) days** to have Seller's title evidence examined.

In the event the title evidence is not made available to Buyer ten (10) days prior to the Closing Date, the Closing Date may be extended by Buyer up to ten (10) days from receipt to allow Buyer to examine the title evidence.

● *Mortgage Inspection Certificate*

A Mortgage Inspection Certificate is defined as a representation of the boundaries of a parcel of real property and the improvements thereon. It is prepared by a Professional Land Surveyor.

The Mortgage Inspection Certificate may be required by a lender to confirm the location of the Property, the buildings and possible encroachments. It is not a Land or Boundary Survey or a Staked Survey. The Mortgage Certificate **is for the lender only** and should **NOT** be relied upon by the Buyer.

● *Survey*

There are different types of surveys and the Buyer's cost will depend on the type of survey selected by the Buyer. For example: A boundary (staked survey) is the physical location of boundary corners, and some details such as fence lines, platted easements and other easements given to the surveyor. On the other hand, an ALTA survey is much more in-depth. It is for the Owner and it will remove the survey exclusion on the Owner's Title Policy. Consequently, the cost of an ALTA survey will be more than the cost of a staked survey.

If Buyer has any questions regarding lot lines, easements, etc., it is recommended that Buyer contact a surveyor of Buyer's choice to determine the cost and type of survey Buyer desires.

● *Title Examination*

If a mortgage is involved, the lender will have the abstract (title) examined. **The lender's title examination does not protect the Buyer.** It is recommended that the Buyer have the abstract (title) examined by an experienced title attorney.

If Buyer's or lender's attorney has a valid objection to the title or the "Mortgage Inspection Certificate," the Buyer must notify the Seller in writing in care of the Listing Broker. Seller will then have 30 days to satisfy a valid objection. The Closing date will be delayed up to 30 days, or such additional time as Buyer shall grant in writing.

● *Title Insurance*

There are two types of Title Insurance policies - a Lender's

Policy and a Buyer's (Owner's) Policy. In most financed transactions, Title Insurance is required by the lender (Lender's Policy) to cover the lender's loan. The Lender's Title Insurance does not protect the Buyer, even though the Buyer pays the Title Insurance premium.

It is recommended that the Buyer obtain an Owner's Title Examination and/or Owner's Title Policy. Lien and survey coverage are usually not included in an Owner's Title Policy. Buyer will need to discuss with the examination attorney the costs and possible requirements to add these coverages. If an Owner's Title Insurance policy is purchased by Buyer, Buyer should have the policy binder/commitment reviewed by an experienced title attorney.

Breach or Failure to Close

In the event of breach of Contract or failure to close, both Buyer and Seller need to be aware that the earnest money is not all that is involved. The party who fulfilled all of his obligations and did not breach or fail to close can seek other and possibly more costly legal remedies.

● *Mutual Release & Earnest Money*

In the event a contract is canceled or fails to close, the broker will prepare a "Mutual Release" for the signature of each of the parties. The Mutual Release will relieve each of the parties from further interest and liability. It will also address the disposition of the earnest money. Unless otherwise agreed to in writing, any expenses incurred by either party (Buyer or Seller) shall be paid by the respective party and shall not be paid from any earnest money deposits.

Occasionally, the parties may not

agree to the disposition of the earnest money. If an agreement is not reached and the below described mediation is unsuccessful, the broker may file for "Interpleader" in a court of law. Interpleader is a legal process whereby the court determines the disposition of the earnest money. The court will also determine the amount and responsibility for court costs.

Mediation

Under the provisions of the Contract, the Buyer, the Seller and the Brokers agree to mediate any claim arising out of a dispute in relation to the Contract. This agreement binds the parties to try to resolve a dispute through mediation before initiating any legal proceedings. Mediation settlements are binding **only** when the parties have signed a written settlement agreement. Mediation is provided by the City of Tulsa's Early Settlement Program. This program is governed by the **Oklahoma Dispute Resolution Act**, and Mediators are trained by the State Supreme Court.

Mediation is fast. The mediation session is usually held within two weeks after you file your complaint.

Mediation is inexpensive. The Tulsa Municipal Court system charges a nominal fee per party.

The Early Settlement program will mediate the dispute even though the Contract is on property located outside of the City of Tulsa.

To file for mediation, the Buyer or Seller will need to go to the City of Tulsa's Early Settlement Office, City Hall, 200 Civic Center, Room 601-L, (918) 596-7786.

Brokerage Services Disclosure

Working with a Real Estate Broker. (For the purpose of this section the term "Broker" includes all real estate licensees affiliated with the broker.)

Under the Oklahoma Real Estate License Law, a real estate licensee provides services to buyers and sellers as either a "transaction broker" or a "single-party broker".

Definitions

The following definitions are from the Oklahoma Real Estate Commission's Oklahoma Broker Relationships Act.

"Transaction" means any or all of the steps that may occur by or between parties when a party seeks to buy, sell, lease, rent, option or exchange real estate and at least one party enters into a broker relationship. Such steps may include, without limitation, soliciting, advertising, engaging a broker to list a property, showing or viewing a property, making offers or counteroffers, entering into agreements and closing such agreements.

"Transaction broker" means a broker who provides services by assisting a party in a transaction without being an advocate for the benefit of that party.

"Single-party broker" means a broker who has entered into a written brokerage agreement with a party in a transaction to provide

services for the benefit of that party.

Written brokerage agreement

A broker may enter into a written brokerage agreement to provide services as either a single-party broker or a transaction broker. If a broker does not enter into a written agreement with a party, the broker shall perform services only as a transaction broker. All brokerage agreements shall be deemed to incorporate as material terms the duties and responsibilities set forth below, based upon whether the relationship established by the brokerage agreement is a transaction broker relationship or single-party broker relationship.

"Party" means a person who is a seller, buyer, landlord, or tenant or a person who is involved in an option or exchange.

Transaction broker duties and responsibilities.

A. A transaction broker shall have the following duties and responsibilities, **which are mandatory and may not be abrogated or waived by a transaction broker:**

1. To treat all parties with honesty and exercise reasonable skill and care;

2. To be available to:

a. receive all written offers and counteroffers,

b. reduce offers or counter offers to a written form upon request of any party to a transaction and

c. present timely such written offers and counter offers.

3. To inform in writing the party for whom the broker is providing services when an offer is made that the party will be ex-

pected to pay certain closing costs, brokerage service costs and approximate amount of said costs;

4. To account timely for all money and property received by the broker;

5. To keep the following confidential information received from a party confidential unless consent to disclosure is granted by the party disclosing the information, the disclosure is required by law, or the information is made public or becomes public as the result of actions from a source other than the broker, the broker shall not disclose:

◆ That a party is willing to pay more or accept less than what is being offered,

◆ That a party is willing to agree to financing terms that are different from those offered, and

◆ The motivation of either party in selling or purchasing the property.

6. To disclose information pertaining to the property as required by the Residential Property Condition Act.

7. To comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

Neither the Buyer nor the Seller shall be liable for the actions or words of the transaction broker.

B. Such duties and responsibilities set forth in this section shall be performed by a transaction broker if such duties and responsibilities relate to the steps of the transaction which occur while there is a broker relationship [*Except as may be provided in a written brokerage agreement between the broker and a party to a transaction, the broker owes no further duties or*

responsibilities to the party after termination, expiration, or completion of performance of the transaction except:

1) To account for all monies and property relating to the transaction; and

2) To keep confidential all confidential information received by broker during the broker's relations with the party.]

C. Nothing in the Real Estate License Code requires or prohibits a transaction broker from charging a separate fee or other compensation for each duty or other services provided during a transaction.

D. If a transaction broker intends to perform fewer services than those required to complete a transaction, written disclosure shall be provided to the party for whom the broker is providing services. Such disclosure shall include a description of those steps in the transaction for which the broker will not perform services, and also state that broker assisting the other party to the transaction is not required to provide assistance with these steps in any manner. *(Note: For the purpose of this paragraph, fewer services does not include the services listed under A1 through A7 above, which cannot be waived or abrogated.)*

Single-party Broker duties and responsibilities.

A. A broker shall enter into a written brokerage agreement prior to providing services as a single-party broker, which shall be deemed to include, and which may not abrogate or waive, the mandatory duties and responsibilities set forth in Paragraph B below.

B. The single-party broker shall have the following duties and

responsibilities:

1. To treat all parties with honesty and exercise reasonable skill and care;

2. To be available to:

a. receive all written offers and counteroffers,

b. reduce offers or counteroffers to a written form upon request of any party to a transaction.

c. present timely all written offers and counteroffers.

3. To inform in writing the party for whom the broker is providing services when an offer is made that the party will be expected to pay certain closing costs, brokerage service costs and approximate amount of said costs.

4. To keep the party for whom the single-party broker is performing services informed regarding the transaction.

5. To account timely for all money and property received by the broker.

6. To keep the following confidential information received from a party confidential, unless consent to disclosure is granted by the party disclosing the information, the disclosure is required by law, or the information is made public or becomes public as the result of actions from a source other than the broker, the broker shall not disclose:

◆ That a party is willing to pay more or accept less than what is being offered,

◆ That a party is willing to agree to financing terms that are different from those offered, and

◆ The motivation of either party in selling or purchasing the property.

7. To perform all brokerage activities for the benefit of the party for whom the single-party broker is performing services unless prohibited by law.

8. To disclose information pertaining to the property as required by the Residential Property Condition Act.

9. To obey the specific directions of the party for whom the single-party broker is performing services that are not contrary to applicable statutes and rules or contrary to the terms of a contract between the parties to the transaction; and

10. To comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

The party a single-party broker represents is liable for the actions and words of the single-party broker.

C. In the event a broker who is a single-party broker for a buyer or a tenant receives a fee or compensation based on a selling price or lease cost of a transaction, such receipt does not constitute a breach of duty or obligation to the buyer or tenant if fully disclosed to the buyer or tenant in the written brokerage agreement.

D. Such duties and responsibilities set forth in this section shall be performed by a single-party broker if such duties and responsibilities relate to the steps of the transaction which occur while there is a broker relationship. *[Except as may be provided in a written brokerage agreement between the*

broker and a party to a transaction, the broker owes no further duties or responsibilities to the party after termination, expiration, or completion of performance of the transaction except:

1) to account for all monies and property relating to the transaction; and

2) to keep confidential all confidential information received by broker during the broker's relations with the party.]

E. Nothing in the Real Estate License Code requires or prohibits a single-party broker from charging a separate fee or other compensation for each duty or other services provided during a transaction.

F. If a single-party broker intends to perform fewer services than those required to complete a transaction, written disclosure shall be provided to the party for whom the broker is providing services. Such disclosure shall include a description of those steps in the transaction for which the broker will not perform services, and also state that broker assisting the other party to the transaction is not required to provide assistance with these steps in any manner. *(Note: For the purpose of this paragraph, fewer services does not include the services listed under B1 through B10 above, which cannot be waived or abrogated.)*

Differences between Transaction and Single-party Broker duties:

◆ The single-party broker must have a written agreement. The transaction broker can have an oral or written agreement to represent a party.

◆ The party a single-party broker represents is liable for the actions and words of the single-party broker. The party a transaction broker represents is not liable for the words or actions of the transaction broker.

◆ The single-party broker works for the benefit of the party he represents. The transaction broker cannot be an advocate for the party he represents.



◆ The single-party broker must obey the specific instructions of the party he represents as long as they are not contrary to applicable statutes and rules or contrary to the terms of a contract between the parties to the transaction. A transaction broker does not have this obligation.

◆ A single-party broker cannot provide single-party brokerage services to both parties to a transaction. However, a single-party broker can represent one party to a transaction as a single-party broker and the other party to the transaction as a transaction broker. In this event, the broker shall disclose in writing to the party for whom the broker is providing services as a transaction broker:

1) the difference between a transaction broker and a single-party broker.

2) that the broker is a single-party broker for the other party and performs services for the benefit of the other party in the transaction.

◆ The transaction broker can

represent both parties to the transaction as a transaction broker.

(NOTE: A Single-party and a transaction broker are required by law to present all written offers regardless of any instructions from the Seller to the contrary.)

Changing from Single-party to Transaction Brokerage Services.

There are instances where the single-party brokerage services provided by the broker must be changed to transaction brokerage services. For example, if the broker is providing single-party brokerage services to both a seller and a buyer and that buyer wants to make an offer on the seller's home, the buyer or seller must agree to change to transaction brokerage services. When this occurs, the broker must obtain written consent (which may be included in the written brokerage agreement or in a separate document) from the Seller or Buyer containing the following information:

◆ A description of the transaction or type of transactions that might occur in which the single-party broker seeks to obtain consent to become a transaction broker.

◆ A statement that in such transactions the single-party broker would perform services for more than one party whose interest could be different or even adverse and that would require the broker to seek the consent of each party to permit a change in the brokerage relationship.

◆ A statement that by giving consent in such transactions:

1) the party will allow the broker to change broker's relationship from performing services as a single-party broker to performing services as a transaction broker,

2) the broker will no longer provide services for the benefit of the party, but may only assist in such transactions,

3) the broker will not be obligated to obey the specific directions of the party but will assist all parties to such transactions,

4) the party will not be vicariously liable for the acts of the broker and associated associates, and

5) the broker's obligation to keep confidential information received from the party confidential is not affected.

◆ A statement that the party is not required to consent to the change in the brokerage relationships in such transactions and may seek independent advice.

◆ A statement that the consent of the party to change the brokerage relationship in such transactions has been given voluntarily and that the written consent has been read and understood by the party, and

◆ A statement that the party authorizes the broker to change the brokerage relationship in such transactions and to assist all parties to such transactions as a transaction broker.

If neither party gives consent as described above, the broker shall withdraw from providing services to all but one party to a transaction.

If only one party gives consent as described above, the broker may

consenting party and continue to act as a single-party broker for the nonconsenting party. The broker shall disclose in writing to the consenting party that the broker remains a single-party broker for the nonconsenting party and performs services for the benefit of the nonconsenting party.

Under the Contract paragraph "**Broker Relationship Disclosure and Information,**" the Listing



Broker and the Cooperating Broker confirm their brokerage relationships.

Financing

Supplemental Agreement

If a mortgage loan is needed to purchase the Property, a Financing Supplemental Agreement will be attached to and made a part of the contract.

It is the responsibility of the lending institution to disclose State and Federal Regulations concerning the terms and conditions of the real estate loan for which the Buyer applies.

The provisions of the Financing Supplemental Agreement require the following:

◆ Buyer must **immediately** make loan application, which usually means **the next business day after the "Effective Date" of the Contract.**

◆ **Buyer must pay all fees required by lender, including appraisal and credit report fees, at the time of application and instruct the lender to process the loan immediately.**

◆ Buyer shall instruct the lender to provide the Listing Broker (if requested) written confirmation that the credit report and appraisal have been ordered.

◆ Buyer must proceed immediately to obtain a commitment for hazard insurance to cover the Property.

◆ If the Buyer is not satisfied with the terms of the loan, Buyer has the option of canceling the Contract **within 5 days of the "Effective Date"** of the Contract.

Regardless of any advice that might be given by a broker or lender, failure to comply with any of the above provisions could be interpreted as Buyer's Breach of Contract.

Buyer needs to be aware that there are a few "predatory lenders." These lenders charge excessive fees or charge more interest that is required based on Buyer's credit history. To learn more about predatory lending, Buyer can check the Consumer Credit Department Web site:

www.okdocc.state.ok.us. Buyer can also check with Consumer



Credit [(800) 448-4904] to determine if a mortgage broker is licensed. It is recommended that Buyer investigate the reputation and stability of the lender Buyer selects.

In the event Buyer fulfills Buyer's obligations, but does not qualify for the loan applied for, the Contract becomes null and void. Upon execution of a Mutual Release by both parties, the earnest money is returned to the Buyer. However, Buyer must pay any expenses Buyer incurred.

Home Warranty Programs

Home Warranty Programs are not addressed in the Contract. The Buyer may obtain a home warranty from a third party for a fee.

Information on Home Warranty providers may be obtained from your REALTOR®.

Broker's Compensation

The broker's compensation is a matter of negotiation between the broker and his or her Buyer or Seller, and is not fixed, controlled, recommended or maintained by

the Greater Tulsa Association of REALTORS® or its subsidiary the Northeast Oklahoma Real Estate Services, Inc. or by any persons not a party to the listing agreement.

Laws and Regulations

Fair Housing

Article 10 of the National Association of REALTORS®' *Code of Ethics* provides that: "REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin.

REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status or national origin."

18" Equipment & Appliances Guideline

The guidelines set out in the *International Mechanical Code* state:

"Equipment and appliances having an ignition source shall be

elevated so that the source of ignition is not less than 18 inches above the floor [on which it sits] in hazardous locations and garages."

If any equipment (such as a hot water heater) fails to meet this criteria, the utility companies and/or the lender may require that it be raised.

In Tulsa and Broken Arrow, a plumbing permit is required and a licensed plumber should be used. An owner can make this repair only if he lives in the house.

The owner will need to obtain a plumbing permit and his work will have to pass inspection. (This is required in several surrounding towns. You should check with the plumbing inspector in the town where the property is *located*.)

Protect Your Interest

Sellers and Buyers should carefully read all agreements to assure that they adequately express their understanding of the transaction. If legal or tax advice is desired, consult a competent professional. The duties of the broker in a real estate transaction do not relieve a Seller or a Buyer from the responsibility to protect their own interests.

