

# 2022 GAR Contract Changes



Compliments of



**Presented by: Dana Sparks**

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**Georgia Real Estate Academy \* 3 Hrs for CE Credit \* GREC Course #73595**

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2022 GAR Contract Changes | GREC CE Course #73595

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**Georgia Real Estate Academy (GREC School #6915)** with end date of renewal being December 31, 2022, presents to you the following course of study:

## **2022 GAR Contract Changes - GREC Course #73595**

This is a Classroom / Virtual / Remote Broadcast of an approved in-class course, is 3 hours in duration, and is approved by the Georgia Real Estate Commission for the purpose of Continuing Education (CE.) There are no pre-requisites to receive credit for this course.

Your instructor(s) for this course will be: **Dana Sparks, Qualifying Broker,  
Maximum One Greater Atlanta, REALTORS®**

This course does NOT have required homework not any required written examination.

### **Attendance policy:**

All students must be on-time and present for all remote / virtual broadcast instruction hours in order to receive credit for this course. Roll call and documentation of Student's Real Estate License Number will be conducted via a "Chat Function" at the beginning and end of each session, and after all breaks.

### **Continuing Education Notice:**

Students may only receive credit for a specific course number once every twelve months. If you have already received credit for this course within the last twelve months, you are invited to attend but will not receive additional credits.

### **Prohibition of Recruitment:**

No recruiting for employment opportunities for any real estate brokerage firm is allowed in this class or on the school premises. Report promptly any effort to recruit on behalf of a brokerage firm by anyone including a fellow student to the Director of Georgia Real Estate Academy, Dana Sparks, [Dana@MaximumOneRealty.com](mailto:Dana@MaximumOneRealty.com) 678-580-6880, the Coordinator of Georgia Real Estate Academy, Heidi Kelly, [rosterCEadmin@eAGENTweb.com](mailto:rosterCEadmin@eAGENTweb.com) 770-919-8825 ext. 306, or the Georgia Real Estate Commission.



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# 2022 GAR Contract Changes

## Introduction

## Purchase & Sale

## Financing Exhibits

## Disclosures

## Contingencies – No Conceptual Changes (some formatting)

## Brokerage Agreements

## Miscellaneous Forms

## Lease

## Consumer Brochures

## Special Stipulations

## INTRODUCTION

### GAR Licensing Agreement

- ▶ 2022 Cost for Non-REALTORS® - \$254
- ▶ Available online January 1, 2022
- ▶ Once 2022 forms are released, it is a GAR licensing violation to use GAR forms with any previous dates
  - Penalty: GAR may revoke yours (or your Broker's) license to use the GAR forms for the year or a specified period of time

### Who is Authorized to Use GAR Contracts?

- ▶ Are you a REALTOR®?
  - Are your Local Board Dues paid?
  - Have you fulfilled the National Association of Realtors (NAR) Code of Ethics Course
    - NAR new 3 year Cycle #7 1/1/22 – 12/31/24
- ▶ Have You Paid GAR to become an Authorized User? You'll receive an FPID Number to then use with FMLS or GMLS – contact your MLS for assistance accessing the GAR Forms package through their systems
- ▶ Are there any Alternatives?
  - Co-op Agent in a transaction
  - Broker may not give you blank forms to use but you may use a Broker's form IF it has the Broker's signature on the signature line
  - RE Forms available at no cost
- ▶ GAR Website: <http://www.GARealtor.com>
- ▶ NAR Website: <http://www.Realtor.org>



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## **GAR Legal Helpline**

- ▶ <http://garealtor.com/LawEthics/LegalHelpline/tabid/569/Default.aspx>
- ▶ Will need your NRDS number
- ▶ Access this link from GAR website

## **GAR Forms – Other Changes**

- ▶ Refer to “2022 GAR Form Changes”
- ▶ Remember to check GAR Mid-Year Changes in May or June of each year
- ▶ This CE class will cover BOTH 2021 Midyear changes (major changes) along with 2022 changes to the GAR contract package forms

## **NEW 2022 Forms**

- ▶ F733 – Binding Agreement Date Confirmation Amendment

## **NEW 2022 Special Stipulations**

- ▶ SS220 – “Buyer Warrants that Use of Land Will Qualify for Preferential Tax Treatment”
- ▶ SS317 – “Repairs Made by Seller During Transaction”
- ▶ SS611 – “Seller Consents to Assignment of Purchase & Sale Agreement”

## **NEW November 2021 Special Stipulations - Attached**

## **NOTES:**

## **PURCHASE & SALE – Universal changes for all Purchase & Sale Agreements**

### **F201 – Purchase & Sale Agreement**

- ▶ Paragraphs Re-Arranged
- ▶ ¶ A5 Closing Attorney / Law Firm – retitled to just “Law Firm” & added “Phone Number”
- ▶ ¶ A6 Holder of Earnest Money – now next to ¶7 – Earnest Money
- ▶ ¶ A8b2 – Additional Option Money for Due Diligence
  - Added payment DIRECTLY to Seller
  - Added option for ACH as a form of the funds
- ▶ ¶ A8b2 – Additional Option Money for Due Diligence
  - Added payment DIRECTLY to Seller
  - Added option for ACH as a form of the funds

### **Note About ACH Payments**

- ▶ Can be rescinded by Sender &/or Bank up to 60 days!
- ▶ Many closing attorneys will not accept
  
- ▶ ¶B – Added “Further Explanations” to Corresponding Paragraphs in Section A
- ▶ Paragraph Numbers changed
- ▶ 4/15/21 - ¶B3c – “& city if applicable”
- ▶ ¶B5 – Holder of Earnest Money
  - Added information about method of payment must be acceptable to Holder
  - Added information about bank fees being passed along to sender of Earnest Money
- ▶ ¶C1b – Delivery of Notice – Universal for “Notice” in all forms
  - Clarification about when electronic Notice (i.e. email) is deemed RECEIVED – “Even if not opened”
- ▶ ¶C1c – Broker Authorized to Accept Notice
  - “for the LIMITED purpose of accepting Notice”
  - “Even if not opened”
- ▶ ¶C4i – No Authority to Bind
  - May not SEND Notices unless SIGNED by Party
  - New verbiage regarding dispute over Binding Agreement date – 2021 version simply said dispute would be resolved between Buyer & Seller
    - Court Arbitrator
    - Written Agreement between Buyer & Seller
    - Holder of Earnest Money
  - Additional verbiage for clarification of agent performing ministerial act of filling in Binding Agreement Date & Sending to other party
- ▶ ¶C4j – added info about intent of agent’s sending

- ▶ NEW - ¶C4k – Objection to Binding Agreement Date – NEW paragraph
  - References NEW Form – F733 – “Binding Agreement Date Confirmation Amendment”
- ▶ NEW - ¶C4l – Rules for Interpreting Agreement = Hierarchy of Control
  - References Amendatory Clauses (Appraisal Contingency) in FHA & VA Exhibits Control
- ▶ 4/15/21 - ¶C4n – Survival – added attorney’s fees
- ▶ ¶C5 – Definitions – Defined “Day” & “Banking Day” & “Business Day”
- ▶ ¶C8 – Exhibits & Stipulations – removed control language – see new ¶C4l
- ▶ Added Form #F246 for “Additional Special Stipulations”

### **F213 Land Purchase & Sale Agreement**

- ▶ Same Universal Changes as F201 Purchase & Sale Agreement
- ▶ ¶B4c – Prorations – New Language about Conservation Easement & CUVA
  - A conservation easement is a voluntary legal agreement between a landowner and an easement holder by which the landowner imposes permanent restrictions on the way the property is used. ... The Georgia Conservation Tax Credit Program provides Conservation Tax Credits to donors of conservation easements.
  - The Georgia Conservation Tax Credit is a financial incentive for landowners to help protect Georgia's natural resources.
  - The Conservation Use Value Assessment, or CUVA, is a ten-year covenant (or agreement) where a landowner pledges to maintain land in a qualifying use in exchange for property tax values based on the land's productivity, not the Fair Market Value
  - If you break this covenant (i.e. develop the land) the owner pays retroactive taxes
- ▶ See Special Stipulation 220 – “Buyer Warrants that Use of Land Will Qualify for Preferential Tax Treatment”

### **FINANCING EXHIBITS – Universal in Loan Exhibits**

#### **F401 – Cash Exhibit**

- ▶ ¶5a – Defined appraiser by OCGA Law

#### **F404 Conventional Loan Contingency Exhibit & F413 USDA Loan Exhibit**

- ▶ ¶ 6 – Loan Denial Letter
- ▶ Added e – If Buyer waives appraisal contingency & property does not appraise, may not use that under Financing Contingency to protect Earnest Money
- ▶ Added f – Lender not having completed underwriting loan request

#### **F407 FHA Loan Contingency Exhibit**

- ▶ ¶6 – Added e (same as f in Conventional)
- ▶ Nothing about Appraisal because Amendatory Clause controls
- ▶ Removed language about “Exhibit Controls” – now in Purchase & Sale ¶C4k



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## **F410 VA Loan Contingency Exhibit**

- ▶ ¶6 – Added e (same as f in Conventional)
- ▶ Nothing about Appraisal because Amendatory Clause controls
- ▶ Removed “Exhibit Controls” – now in Purchase & Sale ¶C4k
- ▶ ¶13 – Certain Repairs made by Seller – added Buyer gets return of Earnest Money if parties can’t agree to negotiate through repairs more than contracted amount to be paid for by Seller
- ▶ Varies slightly from FHA verbiage

## **DISCLOSURES**

### **F301 – Seller’s Property Disclosure Exhibit**

- ▶ 4/15/21 – ¶A3 - Instructions – Documents in Seller’s possession
- ▶ ¶C5 – Systems & Components
  - NOTE - ¶C5b – No “Date” of HVAC System because some parts of system may be newer than other parts or than when entire system was installed
  - ¶C5h – Replaced “Solar Systems” with “Alternative Energy Source Systems”
- ▶ ¶C6d – Added date of testing servicing well & well water
- ▶ 4/15/21 - ¶C9e – Added Shared Driveway
- ▶ ¶C10 – Termites, Dry Rots, Pests, etc. – Broadened to “Are you aware of any wildlife accessing attic or other interior parts?”
- ▶ ¶C14 – Agricultural Disclosure
  - Added ¶C14b – Tax Preferential Treatment
  - Added paragraph about disclosure for Farm & Forest Activities

### **F302 – Seller’s Disclosure of Latent Defects – Changes 4/15/21**

- ▶ Added section about Occupancy
- ▶ Added “Known Latent Defects”

### **F316 – Lead-Based Paint Disclosure – NO HANDOUT**

- ▶ Same as EPA Disclosure – [www.EPA.gov](http://www.EPA.gov)
- ▶ Added Brokerage Lines
- ▶ Errors, incorrect signature dates, missing information or initials on the LBP can result in fines of up to \$16,000 per instance. Further, a seller, lessor, or agent who fails to give the proper disclosure information can be sued for triple the amount of damages. In addition, they may be subject to civil and criminal penalties.
- ▶ EPA enforcement of LBP violations -  
<https://www.epa.gov/sites/default/files/documents/1018erpp-1207.pdf>

## F322 – Community Association Disclosure

- ▶ No conceptual Changes – just re-organized in a manner consistent with other forms in GAR package
- ▶ Re-titled “Directions for filling out for Seller”
- ▶ Added “Buyer’s Use of CAD”
- ▶ ¶A - Basically moved “fill in the blanks” to the front
- ▶ ¶B – Explanation of Items in ¶A

## BROKERAGE AGREEMENTS

### F101 – Exclusive Seller Brokerage Engagement Agreement

- ▶ 4/15/21 - ¶A2 & ¶A3 – Separated for ease of understanding
- ▶ 4/15/21 - ¶A3a – Must be Listed with MLS
- ▶ ¶A6b – Agency & Brokerage – changed to “IF Brokerage offers Dual Agency...”
- ▶ ¶B – “Further Explanations”
- ▶ ¶B3b – added & defined “Internal Marketing”
- ▶ ¶B4c – added “Separate Commission on Lease” explanation to correspond to ¶A4d
- ▶ ¶B5 Protected Period – Removed “for purposes of this section Seller shall mean...” & added it to ¶C6e – “Definition of Buyer & Seller”
- ▶ 4/15/21 - ¶C1 – added Seller to complete Lead Paint Disclosure at time if signing Brokerage Agreement
- ▶ NEW ¶C6e – Definition of Buyer & Seller
- ▶ 4/15/21 - ¶C6m – Referrals – added or to Builder
- ▶ 4/15/21 - ¶C7a – Broker’s Duties to Seller – Re-worked
  - **1/1/21 - 7a. Broker’s Duties to Seller.** Broker’s sole duties to Seller shall be to:
    - (1) make all disclosure required by law;
    - (2) use Broker’s best efforts to procure a buyer ready, willing, and able to purchase Property at the List Price (which amount includes the Commission herein) or any other price acceptable to Seller;
    - (3) comply with all applicable laws in performing its duties hereunder including the Brokerage Relationships in Real Estate Transaction Act, O.C.G.A. § 10-6A-1 et.seq.; and
    - (4) if selected in Section A(8) above, assist in negotiating terms or filling out pre-printed real estate purchase and sale agreements and/or counteroffers.



## F110 – Exclusive Buyer Brokerage Engagement Agreement

- ▶ ¶A3b – Agency & Brokerage – changed to “IF Brokerage offers Dual Agency...”
- ▶ ¶A4 – Commission – NEW Formatting & Verbiage
  - Buyer obligation to pay vs. Buyer choice to pay
  - Reference to Seller-Side paid commission listed in MLS Service
  - Commission on Lease
  - Protected Period now here because it has to do with commission
- ▶ ¶B – “Further Explanations”
- ▶ ¶B4a – Commission – Re-formatted Corresponds to NEW ¶A4
- ▶ 2021 –

<p><b>4. Commission.</b></p> <p>a. <b>Broker's Entitlement to Commission:</b> If during the term of this Agreement (as the same may be extended by the written agreement of the parties or as provided for herein) Buyer enters a Contract to Purchase or a lease, Buyer agrees that Broker shall be entitled to the Commission set forth herein at the closing of the transaction (regardless of whether the closing is during or after the Ending Date) or to a Leasing Commission, if buyer leases, leases to purchase or a leases with an option to purchase real property (regardless of either the commencement of the lease is before or after the expiration of this Agreement). There may be properties shown to Buyer by Broker where a bonus is being offered to Broker in addition to the Commission or by Broker to an affiliated licensee for finding a buyer to purchase the property listed by Broker. Buyer consents to Broker and Broker's affiliated licensees receiving such bonuses.</p> <p>b. <b>Seller Normally Pays Commission:</b> In the event Seller does not pay the Broker the full amount of the Commission, the difference in Commission will be paid by Buyer as agreed in Section A.4(b).</p> <p>c. <b>Commission on Property Sold For Sale By Owner ("FSBO"):</b> In the event Buyer purchases, leases, leases to purchase or leases with an option to purchase property that is being sold or leased by owner ("FSBO") without a broker and the owner is unwilling to pay Broker its Commission at or before the closing, Buyer agrees to pay Broker the Commission set forth herein at or before the closing or the Leasing Commission, if applicable, prior to the commencement of the lease.</p> <hr/> <p>Copyright © 2021 by Georgia Association of REALTORS®, Inc. F110, Exclusive Buyer Brokerage Engagement Agreement, Page 2 of 7, 04/15/21</p>
<p><b>5. Separate Commission on Lease.</b> Notwithstanding the above, if Buyer leases property or enters into a lease/purchase or lease with an option to purchase contract during this Agreement, Buyer shall also pay Broker a separate Leasing Commission (except where the commission is paid by the Landlord) in the amount as indicated elsewhere in this Agreement. Notwithstanding any provision to the contrary contained herein, the payment of a leasing commission (including in lease purchase and lease with an option to purchase transactions) shall not relieve either Buyer from paying the Commission at the closing of a Contract to Purchase, as provided elsewhere in this Agreement.</p> <p><b>6. Protected Period.</b> The Protected Period shall be the period of time set forth in this Agreement commencing upon the expiration of this Agreement or what would have been the expiration of this Agreement had it not been unilaterally terminated by Buyer during which Broker shall be protected for its Commission and/or Leasing Commission, as applicable. There shall be no Protected Period if Buyer and Broker mutually terminate this Agreement. In the event Buyer enters into a Contract to Purchase or lease, lease to purchase or lease with an option to purchase of real property which, during the term of this Agreement or what would have been the term of this Agreement had it not been unilaterally terminated by Buyer, was shown to Buyer by Broker, either virtually or in person, or which Buyer otherwise visited ("Protected Properties"), then Buyer shall pay Broker at closing or prior to the commencement of the lease the Commission and/or Leasing Commission, as applicable, set forth above.</p> <p>For the purposes of this section, the term "Buyer" shall include Buyer, all members of the Buyer's immediate family, any legal entity in which buyer or any member of Buyer's immediate family owns or controls, directly or indirectly, more than ten percent (10%) of the shares or interests therein, and any third party who is acting under the direction or control of any of the above parties. For the purposes of this Agreement, the term "seller" shall include seller, all member of the seller's immediate family, any legal entity in which seller or any member of seller's immediately family owns or controls, directly or indirectly, more than ten percent (10%) of the shares or interests therein, and any third party who is acting under the direction or control of any of the above parties.</p>

- ▶ NEW - ¶C7e – “Buyer Buying Sight Unseen”
- ▶ NEW - ¶C7f – “Definition of Buyer & Seller” – formerly under “Protected Period”
- ▶ 4/15/21 – ¶C7n – Referrals – added or to a Builder
- ▶ ¶C8 – Buyer Default
  - Added “or unpaid portion”

- 4/15/21 – Added verbiage in 8b – when commission would NOT be paid for Mutual Termination
- Added subparagraph d

**NOTE About Change in Commission Paragraphs – NAR v. DOJ Anti-Trust Lawsuit**

- ▶ GAR is taking a proactive step regarding Buyer-Paid Commission based on this lawsuit
- ▶ November 2020 – Department of Justice (DOJ) sues NAR for MLS policies regarding disclosure of commission
- ▶ Allegation is that the Buyer is the only party who does not know how much Brokers are getting paid
- ▶ Buyer’s Agents marketing their services “for free to a Buyer”
- ▶ Agents may select properties to show based on commission
- ▶ Brokers limiting access to lockbox to members of NAR affiliated with MLS
- ▶ Lawsuit was settled out of Court – NAR agreed to change policies & disclose to Buyers offer of commission that Seller’s Broker offers Buyer’s Broker
- ▶ July 2021 – DOJ abandoned the Settlement Agreement to “modify the terms” to allow the DOJ to expand their investigation
- ▶ September 2021 – NAR filed a Countersuit against the DOJ for its unprecedented action of withdrawing from a legal Settlement
- ▶ October 2021 – DOJ will continue to expand their investigation
- ▶ <https://www.justice.gov/atr/case/us-v-national-association-realtors-o>

**MISCELLANEOUS FORMS**

**F219 – Temporary Occupancy Agreement for Seller After Closing Exhibit**

- ▶ ¶1 – Re-worded for clarity
- ▶ ¶8 – Seller responsible for certain repairs
- ▶ ¶10 – “Holdover Rent” vs. “Rent” – because NO Lease – just a tenant at Sufferance
  - Eliminates 60 Day Notice
  - But still have to go to Court to Evict

**4/15/21 - F249 Counteroffer to or Modification of the Unaccepted Original Offer – NO HANDOUT**

- ▶ ¶D Added reference to SS622 –
  - SS 622 CONFORMED COPY OF AGREEMENT Buyer and Seller acknowledge that the above Agreement is a conformed copy of an Agreement between the parties dated \_\_\_\_\_ . In the event of any conflict between this conformed Agreement and the original thereof, all parties agree that the Original Agreement shall control.
- ▶ ¶E Added ACH option



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#### **4/15/21 - F289 Request for Confirmation of Presentation of Offer/Counteroffer**

- ▶ \*\*\* Added language that broker includes affiliated licensees

#### **F240 – Option Agreement – DIFFERENT From Option for Due Diligence!**

- ▶ Completely re-vamped & updated for ease of understanding
- ▶ Added “option consideration (i.e. \$\$) shall be paid immediately to Seller
- ▶ Option for these funds to be applied or not to Purchase Price
- ▶ Added verbiage – commission earned by Broker for Option is in addition to commission earned for Sale
- ▶ Added verbiage for refund to Buyer if Seller unable to sell

#### **F273 – Property Sold with Right to Request Repairs Exhibit**

- ▶ ¶2 – Added verbiage at end of this paragraph – if buyer terminates per instructions, Buyer gets refund of Earnest Money & verbiage that Buyer may NOT terminate if Seller agrees to perform

#### **F279 – Assignment of Purchase & Sale Rights**

- ▶ Re-vamped & updated for ease of understanding
- ▶ Agreement between Buyer #1 (= Assignor) & end Buyer (= Assignee)
- ▶ Seller does not sign
- ▶ ¶4 - Assignor warrants has rights to assign
  - F201 – Purchase & Sale Agreement – Between Seller & Buyer #1 = Assignor
  - ¶C4e – “This Agreement may not be assigned by Buyer except with the written approval of Seller which may be withheld for any reason or no reason. Any assignee shall fulfill all the terms and conditions of this Agreement.”
  - SS 611 SELLER CONSENTS TO ASSIGNMENT OF PURCHASE AND SALE AGREEMENT Seller consents to Buyer assigning this Agreement to another buyer (“Assignee”) and having Assignee become the buyer thereunder.
- ▶ ¶5 – All representations & inducements must be included on the Agreement
- ▶ ¶6 – Commission – if a Broker OTHER than Broker representing Seller & Buyer #1 is procuring cause of ASSIGNMENT, itemize commission for the Assignment
- ▶ Broker Names & Signatures

#### **F289 – Request for Confirmation of Presentation of Offer / Counter Offer**

- ▶ Added verbiage to correspond to NAR REALTOR® Code of Ethics Standard of Practice 1-8
- ▶ Signature of Affiliated Licensee or Broker

#### **4/15/21 - F510 – Closing Attorney Acting as Holder of Earnest Money EXHIBIT**

- ▶ ¶7 – Alternate Holder
  - Buyer must notify parties

- If no Alternate Holder named, default is Buyer's Broker

#### **4/15/21 – F511 – AGREEMENT of Closing Attorney to Act as Holder of Earnest Money**

- ▶ Added line for Buyer & Seller Broker

**NOTE:** F510 is EXHIBIT – Buyer & Seller sign but F511 is AGREEMENT – Only Closing Attorney signs

#### **NEW FORM F733 – Binding Agreement Date Confirmation Amendment**

- ▶ For use when there is a discrepancy regarding the Binding Agreement Date

#### **F837 – Estimate of Net to Seller**

- ▶ New items including estimate of HOA fees
- ▶ Suggestion: Add Commission

#### **F840 – Estimate of Cost to Buyer**

- ▶ New items including HOA fees & intangible tax
- ▶ Moved prepaid interest to #4 vs. being #8 in “Escrow”
- ▶ Suggestion: Add Commission & Seller Contributions

### **LEASE**

#### **F913 – Residential Lease**

- ▶ ¶A13 – Early Termination by Landlord – negotiate this timeframe – also ¶B13
- ▶ ¶B5 – Notices – same as in Purchase & Sale, etc.
- ▶ ¶22c – Denial of Access 7 Right to Access – Compensation for denial of access & Visitors may take photos / video

### **CONSUMER BROCHURES**

#### **CB04 – Lead-Based Paint Brochure – NO HANDOUT**

- ▶ Same as EPA – [www.EPA.gov](http://www.EPA.gov) – as of March 2021

#### **CB13 – Protect Yourself When Buying Real Property – NO HANDOUT**

- ▶ “Thoroughly Investigate Property” – added verbiage about types of testing (i.e. well, etc.)

## SPECIAL STIPULATIONS - 2022

- ▶ **SS 220 BUYER WARRANTS THAT USE OF LAND WILL QUALIFY FOR PREFERENTIAL TAX TREATMENT** Buyer warrants that Buyer's use or ownership of the Property will qualify for continuation of the preferential tax treatment of the Property as agricultural property. If Buyer is found to no longer qualify for the same, Buyer shall indemnify and hold Seller harmless from and against all liability for rollback taxes. This warranty shall survive Closing.
- ▶ **SS 317 REPAIRS MADE BY SELLER DURING THE TRANSACTION** Seller will obtain any required permits and/or certificates for the completion of the repairs/construction as is made part of this Agreement and provide Buyer with applicable documentation.
- ▶ **SS 611 SELLER CONSENTS TO ASSIGNMENT OF PURCHASE AND SALE AGREEMENT** Seller consents to Buyer assigning this Agreement to another buyer ("Assignee") and having Assignee become the buyer thereunder.



## SITUATIONS & SPECIAL STIPULATIONS – November 2021

Below are special stipulations for a variety of situations that can occur during the home sale process. Cut and paste the special stipulations below to modify the Purchase & Sale Agreement to fit your client's situation. For a full explanation of these stipulations, read Seth Weissman's article "*Special Stipulations for All Occasions*," in the [Winter 2021 issue of Georgia REALTOR® magazine \(p. 12\)](#).

**SITUATION:** Changing the time deadline for obligations to be performed from midnight to 9:00 P.M.

**STIPULATION:** "All time deadlines set forth herein shall expire at \_\_\_\_\_  a.m.  
OR  p.m. on the day of the deadline."

**SITUATION:** Allowing notices to be sent via text

**STIPULATION:** "Notwithstanding any provision to the contrary contained herein, notices by text shall expressly be permitted in this Agreement provided that the party receiving the text has provided a cell phone number below, all other terms of the notice provision are met,

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and the sender saves a copy of the text. The text shall be deemed signed by the party sending the text if the sender types their name at the end of the text or the notice is attached to the text and that notice is signed. The notice shall be deemed delivered when it is received on the receiving device of the party to whom it was sent, and not when it is opened. The name of the party who is consenting to receiving notices by text and their phone number is set forth below.”

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**SITUATION:** Cleanliness of house at closing

**STIPULATION:** “Seller agrees that not more than three days prior to the Closing, all carpeted areas in the house shall be steam cleaned by a professional carpet cleaning company, all non-carpeted areas shall be swept clean and mopped (with areas with hardwood floors being damp mopped), all toilets, sinks, kitchen and sink counters, bathtubs, showers, ovens and stovetops shall be cleaned such that dirt and stains, to the extent reasonably possible, are removed and all dirt and hand marks around door handles on doors and on door frames shall be cleaned. Seller agrees to have removed all personal property from the Property at least four (4) hours prior to Closing to make it easier for Buyer to do a final walk-through of the Property.”

**SITUATION:** Buyer warrants that buyer doesn't have other nearby property under contract.

**STIPULATION:** “Buyer warrants that Buyer is not currently a party to any other purchase and sale contract to buy real property within \_\_\_\_\_ miles of the Property and will not contract to purchase any other property within \_\_\_\_\_ miles from this Property during the pendency of this Agreement. If Buyer breaches this warranty, Seller may terminate this Agreement due to Buyer's breach upon notice to Buyer. Buyer acknowledges that Seller will be significantly damaged as a result of such breach and Buyer and Seller agree that Seller shall be entitled to keep Buyer's earnest money as liquidated damages (even if not all of the conditions or contingencies in the Agreement have been fulfilled), or if the Due Diligence Period has not yet expired, it being agreed that the amount is a reasonable pre-estimate of Seller's actual damages and is not a penalty.”

**SITUATION:** Getting a copy of the covenants and determining whether the property is subject to easements and covenants.

**STIPULATION:** **Option** **1**  
“Seller agrees to provide Buyer within \_\_\_\_ days from the Binding Agreement Date with a complete and current set of all covenants, Declarations of Covenants, Conditions, Restrictions and Easements, Declarations of Condominium and other similar documents binding the Property.”



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**Option****2**

*“Seller shall within three days of the Binding Agreement Date provide Buyer with a copy of the Owner’s Title Policy or Lender’s Title Policy Seller, if any, received when Seller closed on the purchase of the Property.”*

**SITUATION:** Paying cash for the difference between the appraised price and the sales price.

**STIPULATION:** *“In the event the Property does not appraise for at least the purchase price, Buyer agrees to pay Seller at closing the difference between the sales price and the appraised value in cash and not use the failure of the Property to appraise for the purchase price as a basis to either terminate this Agreement or ask for a reduction in the sales price. Notwithstanding the above, if the difference between the sales price and the appraised value of the Property is more than \$\_\_\_\_\_, Buyer shall have the right, but not the obligation, to terminate this Agreement provided that Buyer gives notice to Seller within \_\_\_\_ days of receiving the appraisal of the Property, in which case Buyer shall be entitled to the return of Buyer’s earnest money. If Buyer does not terminate the Agreement within this time frame, Buyer’s right to terminate on this basis shall be waived and Buyer shall pay cash to Seller at the closing for the entire difference between the appraised value and the sales price of the Property.”*

**SITUATION:** Right of buyer to terminate agreement if amendment to address concerns is not agreed upon.

**STIPULATION:** *“In the event Buyer and Seller have not agreed in writing to an Amendment to Address Concerns with Property where a fully-signed copy of the same is delivered to Buyer and Seller by 11:59 p.m. on the last day of the Due Diligence Period, this special stipulation shall serve as notice from Buyer to Seller of Buyer’s decision to terminate this Agreement immediately thereafter and prior to the end of the Due Diligence Period.”*

**SITUATION:** Condition of systems and appliances.

**STIPULATION:** *“Seller agrees that as of the date of Closing, all systems in the Property, including, but not limited to, the HVAC, electrical, plumbing, roofing, sewer and structural and all fixtures and appliances remaining in the Property shall be in good working order and repair.”*

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# Thank You!

- ▶ Remember to Confirm all Contract Questions with your Broker!
- ▶ Please refer any legal questions to the GAR Legal Helpline or an Attorney
- ▶ Please attend Additional Courses:  
[www.registerforREclasses.com](http://www.registerforREclasses.com) Select your Geographic Location – “Marietta” is Master Virtual Calendar
- ▶ Course Offered through: Georgia Real Estate Academy (*GREC School #6915*)
- ▶ Hosted by: Maximum One Realty & Maximum One REALTOR® Companies
- ▶ CE Credits to be recorded within 3 - 7 Business Days
- ▶ Any questions regarding your CE Credits – Email: Heidi Kelly – Coordinator of Georgia Real Estate Academy –  
[rosterCEadmin@eAGENTweb.com](mailto:rosterCEadmin@eAGENTweb.com) 770-919-8825 x 306
- ▶ Weekly Videos on Contract Tips: [Real Estate Made Crystal Clear](#) – on YouTube

**Have a joyous & prosperous year helping others  
with their real estate needs!**