

Guide to the CABR Contract Release and Termination Forms

The Cincinnati Area Board of REALTORS® has forms available to facilitate the termination and/or release from a purchase contract that may or may not include the release of earnest money. **Using the proper form for the specific situation being addressed is important to ensure the effectiveness of the intent and to protect your client.** Below is a guide to assist you through the process. The information provided is intended to explain the differences between the CABR forms and explain the situations for the use of each form. **If you have any questions regarding which form to use, contact your manager or broker.**

Notice of Termination of the Contract to Purchase: A real estate purchase contract typically provides opportunities for either the buyer or seller to terminate the contract, when an agreed-upon contingency written into the purchase contract cannot be satisfied or is not waived by the party benefitting from the contingency.

Provisions for the termination of a purchase contract are established within the contract itself. Some are pre-printed as contingencies. Others need to be added to address a party's specific situation (i.e., attorney review, estimate from contractor, etc.). Most termination points are buyer terminations. However, the seller also has the right to terminate in some situations. See excerpt from the NOTICE OF TERMINATION OF THE CONTRACT TO PURCHASE below:

The ☐ Buyer ☐ Seller is exercising their right, as established in the Contract, to terminate the Contract for the following reason and the parties are hereby released from any and all obligations, rights and privileges arising out of the Contract:

- ☐ NON-PAYMENT OF EARNEST MONEY [Written acknowledgement that earnest money has been submitted for deposit not provided within the time-frame specified in the purchase contract] (Seller has the right to terminate)
- ☐ FINANCING CONTINGENCY [Written confirmation that buyer has completed any of the financing requirements not provided within the time-frame specified in the purchase contract] (Seller has the right to terminate)
- ☐ APPRAISAL CONTINGENCY [The Real Estate is appraised at an amount less than the final sales price within the time-frame specified in the purchase contract for obtaining an appraisal] (Buyer has the right to terminate)
- ☐ HOMEOWNER ASSOCIATION/CONDOMINIUM DECLARATIONS, BYLAWS AND ARTICLES [Buyer does not approve of HOA documents and is delivering notification of disapproval within the time-frame specified in the purchase contract] (Buyer has the right to terminate)
- ☐ REAL ESTATE INSPECTION [Buyer is not satisfied with the condition of the Real Estate as a result of the inspections and is providing written notification of termination within the time-frame specified in the purchase contract for obtaining inspections or buyer has submitted a request for repairs within the time-frame specified in the purchase contract for obtaining inspections, buyer and seller have not reached an agreement as to the condition of the Real Estate and buyer elects to terminate prior to the expiration of the settlement period] (Buyer has the right to terminate) *Note: If repairs are requested within the time-frame specified in the purchase contract for obtaining inspections and no agreement is reached by the end of the settlement period, the Contract is terminated at that time with no notice required.*
- ☐ PROPERTY INSURANCE AVAILABILITY AND/OR COST [Within the time-frame specified in the purchase contract, Buyer is not satisfied with the cost of insurance or cannot obtain insurance on the Real Estate] (Buyer has the right to terminate)
- ☐ MAINTENANCE [Seller fails to maintain the Real Estate per the contract terms or the Real Estate is damaged or destroyed by fire or other casualty] (Buyer has the right to terminate)
- ☐ OTHER CONTINGENCY (Terminating party must have express, written right to terminate the Contract provided in the Contract terms): _____.

The form NOTICE OF TERMINATION OF THE CONTRACT TO PURCHASE is to be used in such situations when a party is exercising a provided right to terminate. The signature(s) of the terminating party is all that is required on the Notice.

Remember that neither party can terminate for a reason other than the contingencies agreed upon in the Purchase Contract. Be mindful to send over the NOTICE OF TERMINATION OF THE CONTRACT TO PURCHASE, within the time frame agreed upon in the Purchase Contract for the contingency being cited in order for the termination to be effective.

MUTUAL RELEASE OF CONTRACT AND DISPOSITION OF EARNEST MONEY

This form can serve two purposes. It can be used to facilitate an agreement to release all parties from the purchase contract, which may or may not be due to a contingency contained in the contract. It can also be used to address the disposition of earnest money.

In the event one of the parties wishes to be released from the contract for a reason other than a written contingency (i.e. job transfer, illness, etc.), the parties may *mutually agree* to release one another from their contractual obligations. This mutual release *may* include the disbursement of earnest money, or, it may indicate that the parties will address the disposition of earnest money at another time.

Sections 1-3 of the form facilitate an agreement between the parties to release everyone involved in the transaction from all obligations and/or claims pertaining to the purchase contract. Section 4 addresses the disposition of earnest money.

The release sections can be agreed upon separate from the determination as to how the earnest money is to be dispersed, which can be indicated in section 4.

It is important to use the proper form at the proper time. If your client wishes to terminate the contract for one of the contingencies contained in the contract – it is important to make sure the NOTE OF TERMINATION OF THE CONTRACT TO PURCHASE is physically delivered to the other party prior to the deadline specified in the contract. The MUTUAL RELEASE OF CONTRACT AND DISPOSITION OF EARNEST MONEY may be sent at the same time to address the disposition of earnest money. However, it is not required for the NOTICE OF TERMINATION OF THE CONTRACT TO PURCHASE to be effective.

The MUTUAL RELEASE OF CONTRACT AND DISPOSITION OF EARNEST MONEY is to be used to conclude the transaction and establish that the seller is free to sell to another buyer, and the buyer is no longer obligated to buy the property. This form also addresses whether the parties agree to whom the earnest money is to be disbursed or whether they will determine that at a later date (by mutual agreement, court, arbitration, etc.).

These forms have very specific purposes and are NOT interchangeable. If you are uncertain which form is required for a situation, please contact your broker or manager.