



UPDATED FORMS

Purchase Contracts




MASSACHUSETTS
ASSOCIATION OF REALTORS®



Contract to Purchase Real Estate

- MAR has analyzed the discourse in our industry over the last year, and we see a push toward **including the negotiation of the Buyer Broker's fee** between the Buyer and Seller (if the Buyer so chooses to include that cost in their overall offer to purchase).

CONTRACT TO PURCHASE REAL ESTATE #501 (Page 1 of 3)
(With Contingencies)

 **MASSACHUSETTS ASSOCIATION OF REALTORS®**

(BINDING CONTRACT. IF LEGAL ADVICE IS DESIRED, CONSULT AN ATTORNEY.)

From: **BUYER(S):** Name(s): _____ Address: _____
To: **OWNER OF RECORD ("SELLER"):** Name(s): _____ Address: _____

A Massachusetts licensed real estate broker, _____, is operating in this transaction, pursuant to a separate agreement as: BUYER's Agent SELLER's Agent Facilitator Dual Agent on behalf of _____
(This provision does not eliminate the requirement to have a signed Massachusetts Mandatory Real Estate Licensee-Consumer Relationship Disclosure, but acts to satisfy Standard of Practice 16-10 in the REALTOR® Code of Ethics.)

The BUYER offers to purchase the real property described as _____ together with all buildings and improvements thereon (the "Premises") to which BUYER has been introduced by _____ upon the following terms and conditions:


1. **Purchase Price:** The BUYER agrees to pay the sum of \$ _____ to the SELLER for the purchase of the Premises (the "Offer"), due as follows:

- \$ _____ as a deposit to bind this Offer
 and delivered herewith to the Seller or Seller's agent
 or to be delivered forthwith upon receipt of written acceptance
- \$ _____ as an additional deposit upon executing the Purchase and Sale Agreement;
- Balance by bank's, cashier's, treasurer's or certified check or wire transfer at time for closing.

2. **Compensation to Buyer Broker.** *(Delete if Waived)* the BUYER's obligations under this agreement are subject to SELLER'S agreement to pay _____ % of the (net/ gross) selling price of the Premises or a flat fee of \$ _____ dollars to _____, the "BUYER'S BROKER" at the time of closing. This compensation is independent of and in addition to any offer of compensation made by the LISTING BROKER to the BUYER'S BROKER.

execute the Standard Purchase and Sale Agreement of the MASSACHUSETTS ASSOCIATION OF REALTORS® or substantial equivalent which, when executed, shall become the entire agreement between the parties and this Offer shall have no further force and effect.

5. **Closing.** The SELLER agrees to deliver a good and sufficient deed conveying good and clear record and marketable title at _____ a.m./p.m. on _____ at the _____ Registry of Deeds or such other time or place as may be mutually agreed upon by the parties.

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10.22.2014/003031 

Contract to Purchase Real Estate

- While Form #310 is still available in the MAR forms library, the **contingency** was added directly into the body of the updated Contract to Purchase.

NOTE: The Buyer is not obligated to include the request for the Seller to pay their broker as a part of their offer—there is an option to delete this provision. However, as we see negotiation of payment of these fees become a more regular part of the full purchase negotiation, the **contingency** has been included for ease.

7. **Contingencies.** It is agreed that the BUYER'S obligations under this Offer and any Purchase and Sale Agreement signed pursuant to this Offer are expressly conditioned upon the following terms and conditions:

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(With Contingencies)

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6. **Escrow.** The deposit shall be held by _____, as escrow agent, subject to the terms hereof. Endorsement or negotiation of this deposit by the real estate broker shall not be deemed acceptance of the terms of the Offer. In the event of any disagreement between the parties concerning to whom escrowed funds should be paid, the escrow agent may retain said deposit pending written instructions mutually given by the BUYER and SELLER. The escrow agent shall abide by any Court decision concerning to whom the funds shall be paid and shall not be made a party to a pending lawsuit solely as a result of holding escrowed funds. Should the escrow agent be made a party in violation of this paragraph

for financing in the amount of \$ _____ at prevailing rates, terms and conditions by _____. The BUYER shall have an obligation to act reasonably diligently to satisfy any condition within the BUYER'S control. If, despite reasonable efforts, the BUYER has been unable to obtain such written commitment the BUYER may terminate this agreement by giving written notice that is received by 5:00 p.m. on the calendar day after the date set forth above. In the event that notice has not been received, this condition is deemed waived. In the event that due notice has been received, the obligations of the parties shall cease, and this agreement shall be void, and all monies deposited by the BUYER shall be returned. In no event shall the BUYER be deemed to have used reasonable efforts to obtain financing unless the BUYER has submitted one application by _____ and acted reasonably promptly in providing additional information requested by the mortgage lender.

b. **Inspections. (Delete if Waived)** The BUYER'S obligations under this agreement are subject to the right to obtain inspection(s) of the Premises or any aspect thereof, including, but not limited to, home, pest, radon, lead paint, energy usage/efficiency, septic/sewer, water quality, and water drainage by consultant(s) regularly in the business of conducting said inspections, of BUYER'S own choosing, and at BUYER'S sole cost by _____. If the results are not satisfactory to BUYER, in BUYER'S sole discretion, BUYER shall have the right to give written notice received by the SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above, terminating this agreement. Upon receipt of such notice this agreement shall be void and all monies deposited by the BUYER shall be returned. Failure to provide timely notice of termination shall constitute a waiver. In the event that the BUYER does not exercise the right to have such inspection(s) or to so terminate, the SELLER and the listing broker are each released from claims relating to the condition of the Premises that the BUYER or the BUYER'S consultants could reasonably have discovered.

8. **Representations/Acknowledgments.** The BUYER acknowledges receipt of a *Massachusetts Mandatory Real Estate Licensee-Consumer Agency Disclosure, Property Transfer Lead Paint Notification and Certification* (for residences built before 1978) and *Home Inspectors Facts for Consumers* brochure (prepared by the Office of Consumer Affairs). The BUYER is not relying upon any representation, verbal or written, from any real estate broker or licensee concerning legal use. Any reference to the category (single family, multi-family, residential, commercial) or the use of this property in any advertisement or listing sheet, including the number of units, number of rooms or other classification is not a representation concerning legal use or compliance with zoning by-laws, building code, sanitary code or other public or private restrictions by the broker. The BUYER understands that if this information is important to BUYER, it is the duty of the BUYER to seek advice from an attorney or written confirmation from the municipality. In addition, the BUYER acknowledges that there are no warranties or representations made by the SELLER or any broker on which BUYER relies in making this Offer, except those previously made in writing and the following: _____ (if none, write "NONE")

9. **Buyer's Default.** If the BUYER defaults in BUYER'S obligations, all monies tendered as a deposit shall be paid to the SELLER as liquidated damages and this shall be SELLER'S sole remedy.

10. **Additional Terms.**

BUYER _____ Date _____ BUYER _____ Date _____

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BROKER RESOURCES



Standard Purchase and Sale Agreement

- The **acknowledgment of the fee due to the Broker** section of the Standard Purchase and Sale Agreement now specifies payment for professional services to the Listing Broker from the Seller.

STANDARD PURCHASE AND SALE AGREEMENT #503 (Page 4 of 6)
(With Contingencies)



14. **Acknowledgment of Fee Due Broker(s).** The SELLER and BUYER acknowledge that a fee of \$ _____ for professional services shall be paid by the SELLER to _____, the "LISTING BROKER", at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement with the LISTING BROKER, the terms of the prior fee agreement shall control unless the SELLER and LISTING BROKER have expressly agreed to a change in writing. The SELLER and BUYER also acknowledge that a fee for professional services shall be paid to _____, the "BUYER BROKER" from the following sources as follows (check and complete as applicable):

- LISTING BROKER \$ _____
- SELLER \$ _____
- BUYER \$ _____

For a TOTAL fee due to BUYER BROKER of \$ _____, payable at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement or addendum between the BUYER BROKER and BUYER, SELLER or LISTING BROKER, the terms of the prior fee agreement or addendum shall control unless the parties or beneficiaries to that agreement or addendum expressly agreed to a change in writing. The BUYER further represents and warrants that there is no other broker with whom BUYER has dealt in connection with the purchase of the Premises. The BUYER and SELLER acknowledge receipt of a notice from the LISTING BROKER and/or BUYER BROKER, pursuant to 254 of the Code of Massachusetts Regulations Section 3.0 (13), regarding any agency relationship of the LISTING BROKER and/or BUYER BROKER with the BUYER and/or the SELLER.

Standard Purchase and Sale Agreement

- Separately lists a payment for professional services to the Buyer Broker, allowing that payment to be reflected in whole (or in part) from the Listing Broker, as offered through their Listing Agreement with the seller, directly from the seller or directly from the buyer.
- Payment to the Buyer's Broker may come from more than one source and is now clearly indicated.

STANDARD PURCHASE AND SALE AGREEMENT #503 (Page 4 of 6)
(With Contingencies)



14. **Acknowledgment of Fee Due Broker(s).** The SELLER and BUYER acknowledge that a fee of \$_____ for professional services shall be paid by the SELLER to _____, the "LISTING BROKER", at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement with the LISTING BROKER, the terms of the prior fee agreement shall control unless the SELLER and LISTING BROKER have expressly agreed to a change in writing. The SELLER and BUYER also acknowledge that a fee for professional services shall be paid to _____, the "BUYER BROKER" from the following sources as follows (check and complete as applicable):

- LISTING BROKER \$_____
- SELLER \$_____
- BUYER \$_____

For a TOTAL fee due to BUYER BROKER of \$_____, payable at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement or addendum between the BUYER BROKER and BUYER, SELLER or LISTING BROKER, the terms of the prior fee agreement or addendum shall control unless the parties or beneficiaries to that agreement or addendum expressly agreed to a change in writing. The BUYER further represents and warrants that there is no other broker with whom BUYER has dealt in connection with the purchase of the Premises. The BUYER and SELLER acknowledge receipt of a notice from the LISTING BROKER and/or BUYER BROKER, pursuant to 254 of the Code of Massachusetts Regulations Section 3.0 (13), regarding any agency relationship of the LISTING BROKER and/or BUYER BROKER with the BUYER and/or the SELLER.

Resources

Additional resources featured in this presentation:

- [Updated Contract to Purchase Real Estate #501](#)
- [Standard Residential Purchase and Sale Agreement #503](#)



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MAR LEGALHOTLINE



1-800-370-LEGAL (5342)



- Call 800-370-LEGAL (5342) from 9 am – 4 pm Monday through Friday
- Or email Legalhotline@marealtor.com any time



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