



## OREF Residential Library

### Real Estate Transaction Terms & Concepts

**DISCLAIMER:** This document is provided by Oregon Real Estate Forms, LLC (OREF), to help buyers and sellers understand the words and phrases commonly used in real estate. These words can mean different things depending on the situation they are used in. For answers to questions about a real estate transaction, it is best to talk with a real estate agent. For legal questions, talk with a lawyer. This document is only meant to give general information. It is not legal advice. OREF is not responsible for any actions taken based on this document.

When working with a Translator, review [OREF 112 – Translation and Interpretation Services Affidavit](#).

TERM	EXPLANATION
<b>AGENCY</b>	<p>An agency relationship is a legal agreement between a licensed real estate agent and their client. It is a voluntary agreement, which means both sides choose to work together. When an agent represents a client, the agent must always act in the client’s best interest.</p> <p>In Oregon, one agent is allowed to represent both the buyer and the seller in the same sale, or even two different buyers who are interested in the same property. This can only happen if everyone agrees by signing a form called a Disclosed Limited Agency Agreement.</p> <p>When an agent represents more than one person in the same sale, there are limits. The agent must stay neutral. This means the agent cannot do anything that would help one person more than the other.</p> <p>OREF forms let clients choose if their agent can represent more than one person in the same transaction. Clients should learn about the different types of agency relationships and understand how they affect trust, honesty, privacy, and who the agent works for.</p> <p>For more information, see <a href="#">OREF 042 – Initial Agency Disclosure Pamphlet</a>.</p>
<b>PARTY</b>	<p>In contracts, party means a person or entity who has signed a contract. There are always two or more parties to a contract.</p>
<b>REAL PROPERTY</b>	<p>Real property means land and anything that is built on it or permanently fixed to it, such as houses, buildings, or attached items like sinks or cabinets. Real property cannot be moved and is officially given to the new owner through a legal document called a deed.</p>
<b>AS-IS</b>	<p>The sale agreement says that, unless the seller has made a written promise about that condition of the property, the buyer agrees to buy the property in “AS-IS” condition. This means the seller does not have to fix anything unless both sides agree in writing.</p> <p>When a home is sold AS-IS, the buyer accepts the property with any problems it might have, even if those problems are found after closing.</p>
<b>OFFERS/ COUNTEROFFERS</b>	<p>In Oregon, offers to buy real estate must be in writing. If one side does not agree to the offer as it is written, they can make a counteroffer, which suggests different terms that the party would agree to.</p> <p>Real estate agents in Oregon are licensed to help buyers and sellers write offers and counteroffers. They also help both sides work together to agree on the final terms of the sale.</p>
<b>ADDENDUM</b>	<p>An addendum is a document that adds to or changes something in the original agreement. Once both the buyer and seller agree to it in writing, it becomes a legal part of the contract.</p>
<b>DEFINITIONS AND MISCELLANEOUS SECTIONS</b>	<p>OREF sale agreements include a section that explains important words and rules used in the contract. This section helps buyers and sellers understand exactly what these words mean in the agreement. In OREF documents, these important words are capitalized. Capitalizing the word shows that it has a specific meaning explained in the Definitions section of the agreement.</p>



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### DEPOSIT (EARNEST MONEY)

Earnest Money is a deposit the buyer pays after their offer to buy the home is accepted. This deposit shows that the buyer is serious about completing the purchase. Usually, this first payment is due right after the contract is signed. Sometimes, the buyer may have to pay more later. This could happen on a set date or when something specific happens, such as when the inspection period ends.

The sale agreement says that if the buyer does not do what they promised in the contract, the seller may be able to keep the earnest money. Because of this, sellers should think carefully before signing the agreement about how much earnest money is enough. They should consider whether the deposit would fairly cover their loss if the buyer decides not to finish the purchase.

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### DOWN PAYMENT

When a buyer uses a loan from a bank or lender to buy a home, the down payment is the amount of money the buyer must pay at closing, in addition to any money provided by the lender. This money is part of the total price of the home.

The amount of the down payment is different for each buyer. The lender decides how much is required. This depends on the type of loan and the buyer's income, credit, and other financial details.

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### CLOSING COSTS

Closing costs are the fees and expenses that must be paid at the end of the home buying process. These costs are separate from the down payment. They pay for services needed to complete the sale and make the home officially belong to the buyer.

Both the buyer and the seller usually pay some closing costs, but the types of costs and how much each person pays can be different.

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### ESCROW

The word "escrow" is used in two ways during a home sale:

- 1. Escrow Company:** Escrow is the name for a company that is not on either side. It is neutral and helps both the buyer and seller. This company holds money and important documents while the sale is in progress. The buyer and seller agree in writing on which escrow company to use. The escrow company makes sure that all the steps in the sale are completed before money is paid and ownership of the home is transferred. A real estate agent may recommend an escrow company, but the buyer and seller make the final choice together.
- 2. Escrow Process:** Escrow also means the process the escrow company uses to follow instructions from everyone involved. This includes the buyer, the seller, their real estate agents, the lender, the title insurance company, and government officials. In Oregon, the same company often handles both escrow services and title insurance, although not always. The cost of escrow is usually split equally between the buyer and the seller, but this can be changed if both parties agree.

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### TITLE

A buyer should receive a title report for the property being purchased. This report is created by a title insurance company and gives important information about the home. It shows who owns the property, the amount of title insurance coverage, and the cost of the insurance policy. It also includes a legal description of the property, information about property taxes, limits on the use of the property and a description of any liens against the property. A lien is a notice of debt that is attached to a property, usually requiring the debt to be paid off before the property can be sold.

The buyer should review this report carefully, along with any documents attached to it. These important documents explain how the property can be used, if there are easements (which are legal rights that allow others to use parts of the property), and any other facts that may affect the home. If the buyer finds something in the report that they are concerned about, they should send a written objection as described in the sale agreement. This must happen within the deadline stated in the agreement.

After the sale closes, the title insurance company will give a title insurance policy to the buyer. If the buyer is using a loan, the lender also receives a policy. Usually, the seller pays for the buyer's title insurance, and the buyer pays for the lender's title insurance. For more information, see [OREF 103 – Advisory Regarding Title Insurance](#).



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### CONTINGENCY

When buying property, the sale agreement often includes conditions called contingencies. These conditions help protect both the buyer and the seller. Some common examples include getting approved for a loan, doing a home inspection, and reviewing the property's title to make sure the seller legally owns the property.

Contingencies allow the buyer or seller to cancel (terminate) the sale if something important goes wrong. Such as the buyer's loan not being approved or serious problems being found during the inspection. If the person wants to cancel for a reason that is allowed for in the agreement, they may get their money back.

Each contingency has a deadline, which is the last day to take action. If the person who has the right to cancel does not cancel before the deadline, the protection is considered lost. This is why it is important to keep track of all deadlines in the agreement.

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### DUE DILIGENCE

Due diligence means all buyers have the responsibility to protect themselves by carefully checking and understanding the property before buying it. This usually includes looking at important documents, like the title report or homeowners association (HOA) rules, and hiring inspectors to check the condition of the home.

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### PERSONAL PROPERTY

In real estate, Personal Property means items that are not permanently attached to the home or land. These items are not automatically included in the sale; they are included only if they are clearly written into the sale agreement.

Some examples of personal property are mirrors, furniture, and appliances that are not built in.

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### FIXTURES

Fixtures are personal property items that have become attached to real property. These items are automatically included in the sale unless they are specifically excluded in writing.

Examples include built in appliances, curtain rods, blinds, floor coverings, and lighting fixtures.

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### DISCLOSURES

In Oregon, most home sales include a form called the Seller's Property Disclosure Statement. This form gives important information about the home. It covers things like who owns the home (title), whether the heating, cooling, plumbing, and electrical systems are working, if there have ever been leaks or water damage, and the overall condition of the house. More details are available by reviewing Oregon Revised Statutes 105.464.

The seller must share any serious problems they know about. Even if the home is sold "AS-IS" (meaning the seller does not plan to fix anything), the seller can still be responsible if they do not tell the buyer about problems they knew about. The AS-IS part of the contract does not protect the seller if they hide something important.

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### CLOSING

Closing is the final step when buying or selling a home. It happens on the day when the loan money is sent, fees and costs are paid, and all the paperwork is completed. After closing, the home officially belongs to the buyer.

The OREF sale agreement includes a space for the buyer and seller to choose a deadline for closing. This is the latest day the closing can happen. It is important to choose a realistic date. If the closing does not happen by that date, the buyer or seller may have breached the agreement. If there is a breach by a party, the other party may have the right to choose not to move forward with the sale.

Possession means the buyer takes control of the property. This usually happens on the same day as closing. However, if both parties agree, possession can happen on a different day. OREF has special forms for situations where the buyer moves in before closing or the seller stays in the home after closing.

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### DEED

A deed is a legal document that shows the seller has given ownership of a property to the buyer. It is used to make the change in ownership official.

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### BREACH OF CONTRACT

The words "breach" and "default" in real estate contracts usually mean the same thing. Both refer to a situation where one party does not do what they agreed to do in the contract. What matters most is what happens after someone fails to follow the agreement. This is called the remedy, which means what the other party can do in response.

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There are three main types of contract breaches. First, minor breaches are small issues that are usually not important enough for anyone to do anything about, such as something easily fixed. Second, major breaches are serious problems that keep one party from getting what they expected from the deal. Major breaches may lead to the other party cancelling the agreement, or asking a court for money, or asking a court to force a party to honor the agreement. Third are breaches where the agreement says what happens next, such as loss of earnest money or a right to cancel the contract.

Whether a breach happened and what to do about it are legal matters. Real estate agents are not allowed to give legal advice. If a breach may have occurred, talk to a real estate attorney who can help explain the parties' rights and options.

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### **TERMINATION**

Termination means the contract is officially ended by the buyer or the seller or both. Once the contract is terminated, the two sides are no longer required to follow the terms of the agreement.

It is important for both the buyer and the seller to understand when and how they are allowed to end the contract. The sale agreement explains certain situations, such as when a condition is not met or when a specific event happens, that may give one side the right to cancel the agreement.

If one side breaks the rules of the contract (see "Breach"), the agreement usually explains what happens to the earnest money deposit. It will state which party gets to keep the deposit, depending on who caused the problem.

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### **DISPUTE RESOLUTION**

A dispute is a disagreement between people who signed the contract. It can happen when the buyer and seller do not agree on what the contract means or how it should be followed.

The sale agreement includes a dispute resolution section. This part of the contract explains what steps must be taken to solve the problem and how disputes between the buyer, seller, and real estate agents should be handled.

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