

# NAVIGATING COMMERCIAL PURCHASE AND SALE AGREEMENTS



Developed by:  
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# What is a Contract?

- An Agreement between two or more persons to do, or not do, certain things
- Express vs Implied
- Unilateral vs Bilateral
- Executory vs Executed
- Valid vs Void



# Essential Elements of a Contract

- Competent Parties
- Mutual Assent  
(Offer & Acceptance)
- Lawful Objective
- Valuable Consideration



# Validity & Enforceability

## Valid Contract

- Includes Essential Elements
- Satisfy Statute of Frauds (in writing)
  - **Contracts for sale of real property**
  - Agreements that can't be performed within 1 year
  - Promises to lend money
  - Promises to pay another's debts

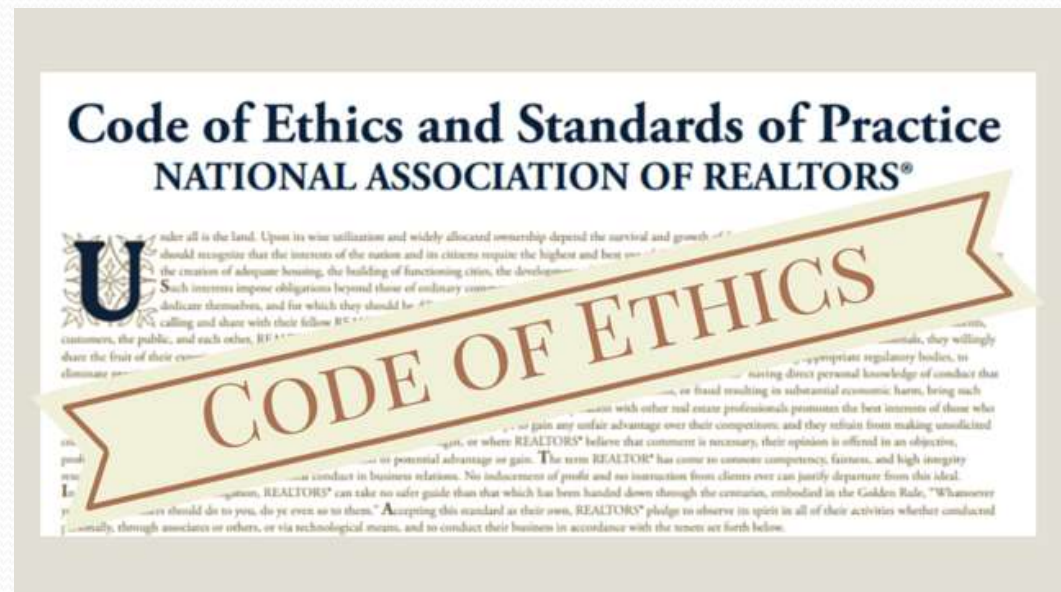
## Void or Unenforceable Contract

- No consideration
- Party incompetent
- Objective unlawful
- Forged signature
- No mutual consent



# Are You Practicing Law Without a License?


- Article 13 NAR Code of Ethics and Standards of Practice
- DO NOT:
  - Write Contracts
  - Modify Contracts
  - Interpret Contracts



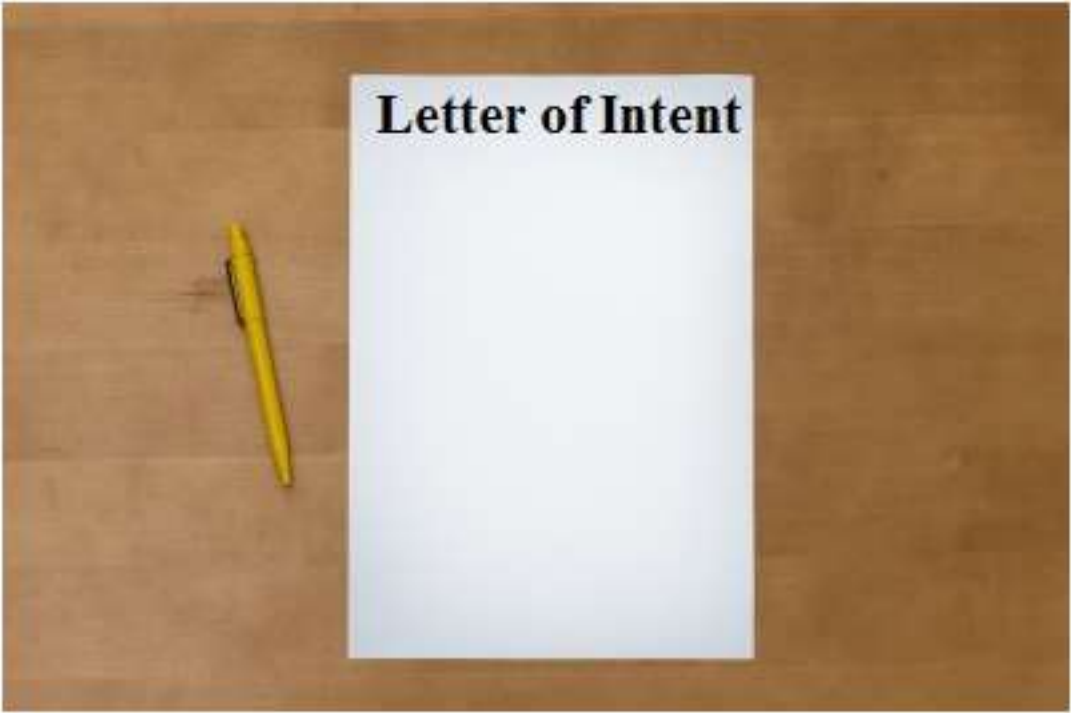
# Confidentiality/Non-Disclosure Agreement







# Letter of Intent



# Commercial Purchase and Sale Agreement







# Commercial Agreement Clauses

- Purchase and Sale (A.1. and B.1.)
  - Property Identification
  - Legal Description
  - Warranty
  - Examination
  - Seller's Obligations at Closing
  - Conditions to Closing

# Commercial Agreement Clauses

- Purchase Price (A.2. and B.2.)
- Closing Costs (A.3. and B.3.)
  - Seller
  - Buyer
  - Taxes & Prorations





# Commercial Agreement Clauses

- Closing and Possession Date (A.4. and B.4.)





# Commercial Agreement Clauses

- Holder of Earnest Money (A.5. and B.5.)
- Closing Attorney/Law Firm (A.6. and B.6.)
- Earnest Money (A.7 and B.7.)



# Commercial Agreement Clauses

- Due Diligence Period (A.8. and B.8.)

CAVEAT EMPTOR





# Commercial Agreement Clauses

## Issues

- Documents
- Commencement
- Rights
- Termination
- Costs

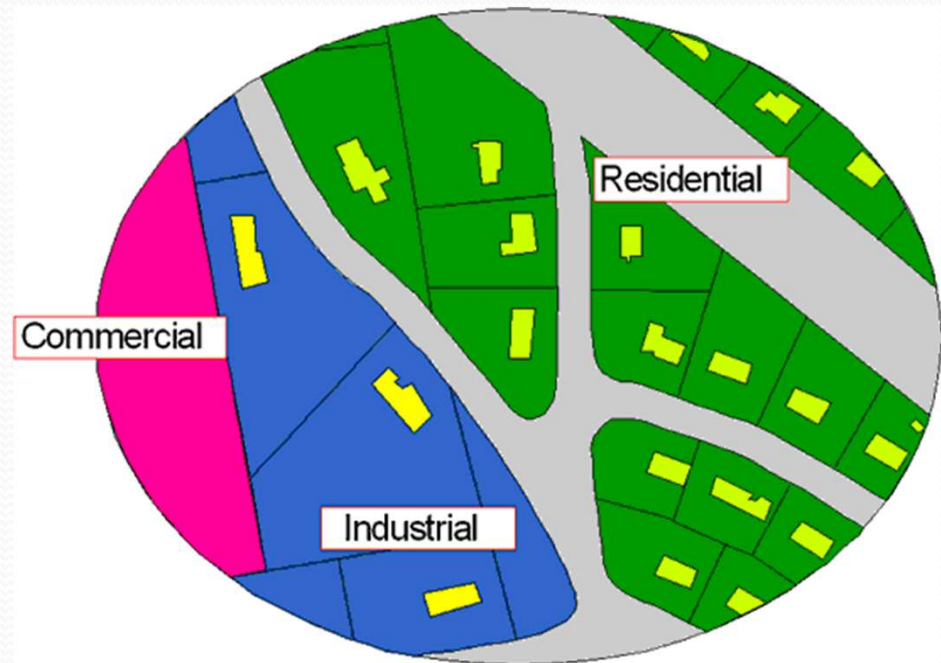
## Categories

- Land Use
- Site
- Building Code & Development
- Transactional/Business/  
Financing
- Market



# Commercial Purchase and Sale Agreement Clauses

- **Land Use Issues**
  - Zoning/Planning
  - Buffers
  - Signage
- Local Ordinances/Policies





# Commercial Purchase and Sale Agreement Clauses

- **Site Issues**

- Size and Shape
- Surveys
- Easements/Rights of Ways
- Traffic/Roads/Access/Ingress/Egress
- Environmental Issues
- Soil characteristics & Topography
- Other

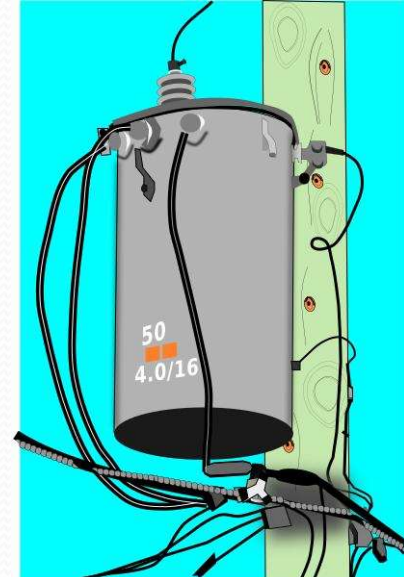


# Commercial Purchase and Sale Agreement Clauses

- **Building Code/Development Issues**
  - Engineering and Building Plans



- Utilities





# Commercial Purchase and Sale Agreement Clauses

- **Transactional/Business & Financing /Costs of Development**
  - Transactional
  - Financing
  - Costs of Development
- **Market Issues**





# Commercial Agreement Clauses

- Title Examinations (A.9. and B.9.)
- Existing Brokerage Commissions (A.10. and B.10.)
- Assignment (A.11. and B. 11.)
- Brokerage Relationships (A.12. and B.12.)
- Time Limit of Offer (A.13. and B.13. )

# Commercial Agreement Clauses

## C. Other Terms and Conditions

- C.1.



- C.2. Destruction of Property Prior to Closing







# Commercial Agreement Clauses (C. Other Terms and Conditions)

- C.3. Representations and Warranties
- C.4. Default



# Commercial Agreement Clauses

- Other Provisions (C.5.)
  - Condemnation
  - Duty to Cooperate
  - Electronic Signature
  - Entire Agreement, Modification & Assignment
  - Extension of Deadline





# Commercial Agreement Clauses

- Other (C.5. cont'd)
  - GAR Forms
  - Governing Law & Interpretation
  - No Authority to Bind
  - Notice of Binding Agreement Date
  - Repairs



# Commercial Agreement Clauses

- Other (C.5. cont'd)
  - Statue of Limitations
  - Survival of Agreement
  - Warranties Transfer
  - Terminology
  - Time of Essence





# Commercial Agreement Clauses

- Definitions (C.6.)
  - Banking Day
  - Binding Agreement Date
  - Broker
  - Business Day
  - Material Relationship

# Commercial Agreement Clauses

- Warning to Buyers and Sellers:

Beware of Cyber Fraud(C.7.)



- Limit on Broker Liability (C.8.)
- Exhibits & Addenda (C.9.)
- Special Stipulations



# Commercial Agreement Clauses (C)

- Signature Block

By signing this Agreement, Buyer and Seller acknowledge that they have each read and understood this Agreement and agree to its terms.

<u>Buyer Acceptance and Contact Information</u>	<u>Seller Acceptance and Contact Information</u>
<b>1 Buyer's Signature</b> _____ Print or Type Name _____ Date _____ <b>Buyer's Address for Receiving Notice</b> _____ <b>Buyer's Phone Number:</b> <input type="checkbox"/> Cell <input type="checkbox"/> Home <input type="checkbox"/> Work _____ <b>Buyer's E-mail Address</b> _____	<b>1 Seller's Signature</b> _____ Print or Type Name _____ Date _____ <b>Seller's Address for Receiving Notice</b> _____ <b>Seller's Phone Number:</b> <input type="checkbox"/> Cell <input type="checkbox"/> Home <input type="checkbox"/> Work _____ <b>Seller's E-mail Address</b> _____
<b>2 Buyer's Signature</b> _____ Print or Type Name _____ Date _____ <b>Buyer's Address for Receiving Notice</b> _____ <b>Buyer's Phone Number:</b> <input type="checkbox"/> Cell <input type="checkbox"/> Home <input type="checkbox"/> Work _____ <b>Buyer's E-mail Address</b> _____ <input type="checkbox"/> Additional Signature Page (F267) is attached.	<b>2 Seller's Signature</b> _____ Print or Type Name _____ Date _____ <b>Seller's Address for Receiving Notice</b> _____ <b>Seller's Phone Number:</b> <input type="checkbox"/> Cell <input type="checkbox"/> Home <input type="checkbox"/> Work _____ <b>Seller's E-mail Address</b> _____ <input type="checkbox"/> Additional Signature Page (F267) is attached.
<u><b>Buyer's Broker/Affiliated Licensee Contact Information</b></u> Buyer Brokerage Firm _____ Broker/Affiliated Licensee Signature _____ Date _____ Print or Type Name _____ GA Real Estate License # _____ <b>Licensee's Phone Number</b> _____ <b>Fax Number</b> _____ <b>Licensee's E-mail Address</b> _____ REALTOR® Membership _____ <b>Broker's Address</b> _____ <b>Broker's Phone Number</b> _____ <b>Fax Number</b> _____ MLS Office Code _____ Brokerage Firm License Number _____	<u><b>Seller's Broker/Affiliated Licensee Contact Information</b></u> Seller Brokerage Firm _____ Broker/Affiliated Licensee Signature _____ Date _____ Print or Type Name _____ GA Real Estate License # _____ <b>Licensee's Phone Number</b> _____ <b>Fax Number</b> _____ <b>Licensee's E-mail Address</b> _____ REALTOR® Membership _____ <b>Broker's Address</b> _____ <b>Broker's Phone Number</b> _____ <b>Fax Number</b> _____ MLS Office Code _____ Brokerage Firm License Number _____
<b>Binding Agreement Date:</b> The Binding Agreement Date in this transaction is the date of _____ and has been filled in by _____	
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# Commercial Agreement Exhibits

- Exhibit A (CF07) – Legal Description
- Exhibit B1 (CF10)– Due Diligence Documents for Conveyance of Business
- Exhibit B2 (CF11)– Due Diligence Documents of Conveyance of Residential, Office, Retail, or Industrial Building
- Exhibit B3 (CF13) – Due Diligence Documents for Conveyance of Equipment and/or other Personal Property
- Exhibit C (CF19) – Additions to Seller's Closing Documents
- Exhibit D (CF22) - Seller's Warranties and Representations



# Thank you and Go Close Those Deals!!!

Linda Olson

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