

# EQUITY PURCHASE AGREEMENT

(With Short-Sale Contingency)

**NOTE:** For use by Buyers of one-to-four residential units which are owner-occupied and in foreclosure when the Buyer does not intend to occupy the property. [Calif. Civil Code §1695]

DATE: \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, California.  
*Items left blank or unchecked are not applicable.*

**FACTS:**

1. Received from \_\_\_\_\_, as the Buyer(s),
  - 1.1 the sum of \$\_\_\_\_\_, evidenced by  personal check, or  \_\_\_\_\_, payable to \_\_\_\_\_, for deposit only on acceptance of this offer.
  - 1.2 Deposit to be applied toward Buyer's obligations under this agreement to purchase property
  - 1.3 situated in the City of \_\_\_\_\_, County of \_\_\_\_\_, California,
  - 1.4 referred to as \_\_\_\_\_,
  - 1.5 including personal property,  see attached Personal Property Inventory. [See ft Form 256]
2. This agreement is comprised of this six-page form and \_\_\_\_\_ pages of addenda/attachments.

**TERMS:** Buyer to pay the purchase price as follows:

3. Cash payment through escrow, including deposits, in the amount of. . . . . \$\_\_\_\_\_
4. Buyer to obtain a trust deed loan in the amount of. . . . . \$\_\_\_\_\_ payable approximately \$\_\_\_\_\_ monthly for a period of \_\_\_\_\_ years. Interest on closing not to exceed \_\_\_\_\_%,  ARM, type \_\_\_\_\_.
5. Assume a tax bond or assessment lien with an unpaid principal balance of. . . . . \$\_\_\_\_\_
6. Total Purchase Price is . . . . . \$\_\_\_\_\_

**7. ACCEPTANCE AND PERFORMANCE:**

- 7.1 This offer to be deemed revoked unless accepted in writing  on presentation, or  within \_\_\_\_\_ days after date, and acceptance is personally delivered or faxed to Offeror or Offeror's Broker within this period.
- 7.2 After acceptance, Broker(s) are authorized to extend any performance date up to one month, except that the date for the close of escrow can not be extended beyond ten business days prior to the date set for a trustee's sale under trust deeds of record on title to the property.
- 7.3 On failure of Buyer to obtain or assume financing as agreed by the date scheduled for closing, Buyer may terminate the agreement.
- 7.4 Buyer's close of escrow is conditioned on Buyer's prior or concurrent closing on a sale of other property, commonly referred to as \_\_\_\_\_.
- 7.5 Any termination of the agreement shall be by written Notice of Cancellation timely delivered to the other party, the other party's Broker or escrow, with instructions to escrow to return all instruments and funds to the parties depositing them. [See ft Form 183]
- 7.6 Both parties reserve their rights to assign and agree to cooperate in effecting an Internal Revenue Code §1031 exchange prior to close of escrow on either party's written notice. [See ft Form 171 or 172]
- 7.7 Before any party to this agreement files an action on a dispute arising out of this agreement which remains unresolved after 30 days of informal negotiations, the parties agree to enter into non-binding mediation administered by a neutral dispute resolution organization and undertake a good faith effort during mediation to settle the dispute.
- 7.8 Should Buyer breach the agreement, Buyer's monetary liability to Seller is limited to \$\_\_\_\_\_.

**8. PROPERTY CONDITIONS:**

- 8.1 Seller to furnish prior to closing:
  - a.  a structural pest control inspection report and certification of clearance of corrective conditions.
  - b.  a home inspection report prepared by an insured home inspector showing the land and improvements to be free of material defects.

- c.  a one-year home warranty policy:  
 Insurer \_\_\_\_\_  
 Coverage \_\_\_\_\_
- d.  a certificate of occupancy, or other clearance or retrofitting, required by local ordinance for the transfer of possession or title.
- e.  a certification by a licensed contractor stating the sewage disposal system is functioning properly, and if it contains a septic tank, is not in need of pumping.
- f.  a certification by a licensed water testing lab stating the well supplying the property meets potable water standards.
- g.  a certification by a licensed well-drilling contractor stating the well supplying the property produces a minimum of \_\_\_\_\_ gallon(s) per minute.
- h.  \_\_\_\_\_
- i.  \_\_\_\_\_

**8.2 Seller's Condition of Property Disclosure —Transfer Disclosure Statement (TDS) [See ft Form 304]**

- a.  is attached; or
- b.  is to be handed to Buyer on acceptance for Buyer's review. Within ten days after receipt, Buyer may either cancel the transaction based on a reasonable disapproval of the disclosure or deliver to Seller or Seller's Broker a written notice itemizing any material defects in the property disclosed by the statement and unknown to Buyer prior to acceptance. [See ft Form 269] Seller to repair, replace or correct noticed defects prior to closing.
- c. On Seller's failure to repair, replace or correct noticed defects under §12.2b or §12.4a, Buyer may tender the purchase price reduced by the cost to repair, replace or correct the noticed defects, or close escrow and pursue available remedies. [See ft Form 183]

**8.3 Seller's Transfer Fee Disclosure Statement [See ft Form 304-2]**

- a.  is attached; or
- b.  is to be handed to Buyer on acceptance for Buyer's review. Withing ten days after receipt, Buyer may terminate this agreement based on a reasonable disapproval of the Transfer Fee Disclosure.
- c. Seller to pay any transfer fees arising out of the transaction.

**8.4 Buyer to inspect the property twice:**

- a. an initial property inspection is required on acceptance to confirm the property's condition is substantially the same as observed by Buyer and represented by Seller or Seller's Agents prior to acceptance, and if not substantially the same, Buyer to promptly notify Seller in writing of undisclosed material defects discovered. [See ft Form 269] Seller to repair, replace or correct noticed defects prior to closing; and
- b. a final walk-through inspection is required within five days before closing to confirm the correction of any noticed defects under §8.2b and §8.4a and maintenance under §8.14. [See ft Form 270]

**8.5 Seller's Natural Hazard Disclosure (NHD) Statement [See ft Form 314]  is attached, or  is to be handed to Buyer on acceptance for Buyer's review. Within ten days of Buyer's post-acceptance receipt of the NHD, Buyer may terminate the agreement based on a reasonable disapproval of hazards disclosed by the Statement and unknown to Buyer prior to acceptance. [See ft Forms 182 and 183]**

**8.6 Buyer acknowledges receipt of a booklet and related seller disclosures containing  *Environmental Hazards: A Guide for Homeowners, Buyers, Landlords and Tenants* (on all one-to-four units),  *Protect Your Family from Lead in Your Home* (on all pre-1978 one-to-four units) [See ft Form 313], and  *The Homeowner's Guide to Earthquake Safety* (on all pre-1960 one-to-four units). [See ft Form 315]**

**8.7 The property is located in:  an industrial use area,  a military ordnance area,  a rent control area, or  airport, farmland, or San Francisco Bay area, see attached Notice Addendum. [See ft Form 308]  \_\_\_\_\_**

**8.8 On acceptance, Seller to hand Buyer the following property information for Buyer's review:  Property Operating Cost Sheet [See ft Forms 306],  \_\_\_\_\_**

- a. Within ten days of receipt, Buyer may terminate the agreement based on a reasonable disapproval of the property information received.

**8.9 If a Homeowners' Association (HOA) is involved,  Buyer has received and approves, or  Buyer on acceptance to be handed, copies of the association's Articles, Bylaws, CC&Rs, collection and lien enforcement policy, operating rules, operating budget, CPA's financial review, insurance policy summary and any age restriction statement.**

- a. No association claims for defects or changes in regular or special assessments are pending or anticipated. Current monthly assessment is \$ \_\_\_\_\_.
- b. Seller is not in violation of CC&Rs, except \_\_\_\_\_.
- c. Seller to pay association document and transfer fees.
- d. Buyer to approve the association's statement of condition of assessments and confirm representations in §8.9a as a condition for closing escrow.
- e. Within ten days of Buyer's post-acceptance receipt of the association documents, Buyer may terminate the agreement based on a reasonable disapproval of the documents. [See ft Form 183]

**8.10 Seller's Criminal Activity and Security Disclosure Statement [See ft Form 321]**

- a.  is attached, or
- b.  is to be handed to Buyer on acceptance for Buyer's review. Within ten days after receipt, Buyer may terminate this agreement based on a reasonable disapproval of the Criminal Activity and Security Disclosure Statement.

**8.11 Smoke detector(s) and water heater bracing exist in compliance with the law, and if not, Seller to install.**

**8.12 If this property or an adjoining property contains a solar collector authorized by the Solar Shade Control Act (California Public Resources Code §25980 et seq.) and notice of its existence has been sent or received by Seller, then on acceptance, Seller to hand Buyer copies of the notices sent or received by Seller or provided to Seller by prior Owners of the property for Buyer's review. Buyer may, within ten days after receipt, terminate this agreement based on a reasonable disapproval of the conditions disclosed by the solar shade control notices.**

**8.13 Possession of the property and keys/access codes to be delivered:  on close of escrow, or  as stated in the attached Occupancy Agreement. [See ft Forms 271 and 272]**

**8.14 Seller to maintain the property in good condition until possession is delivered.**

**8.15 Fixtures and fittings attached to the property include but are not limited to: window shades, blinds, light fixtures, plumbing fixtures, curtain rods, wall-to-wall carpeting, draperies, hardware, antennas, air coolers and conditioners, trees, shrubs, mailboxes and other similar items.**

**8.16 Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP code in which he or she resides.**

**9. CLOSING CONDITIONS:**

**9.1 This transaction to be escrowed with \_\_\_\_\_.**  
**Parties to deliver instructions to escrow as soon as reasonably possible after acceptance.**

- a.  Escrow holder is authorized and instructed to act on the provisions of this agreement as the mutual escrow instructions of the parties and to draft any additional instructions necessary to close this transaction. [See ft Form 401]
- b.  Escrow instructions, prepared and signed by the parties, are attached to be handed to escrow on acceptance. [See ft Form 401]

**9.2 Escrow to be handed all instruments needed to close escrow on or before \_\_\_\_\_, 20\_\_\_\_\_, or within \_\_\_\_\_ days after acceptance. Parties to hand escrow all documents required by the title insurer, lenders or other third parties to this transaction prior to seven days before the date scheduled for closing.**

- a. Each party to pay its customary Escrow charges. [See ft Forms 310 and 311]

**9.3 Buyer's title to be subject to covenants, conditions, restrictions, reservations and easements of record.**

**9.4 Title to be vested in Buyer or Assignee free of encumbrances other than those set forth herein. Buyer's interest in title to be insured under a policy issued by \_\_\_\_\_ title company on a(n)  Homeowner(s) policy (one-to-four units),  Residential ALTA-R policy (vacant or improved residential parcel),  Owner's policy (other than one-to-four units),  CLTA Joint Protection policy (also naming Carryback Seller or purchase-assist lender), or  Binder (to insure resale or refinance within two years).**

a. Endorsements \_\_\_\_\_

b.  Seller, or  Buyer, to pay the title insurance premium.

9.5 Buyer to furnish a new fire insurance policy covering the property.

9.6 Taxes, assessments, insurance premiums, rents, interest and other expenses to be pro rated to close of escrow, unless otherwise provided.

9.7 Bill of Sale to be executed for any personal property being transferred.

9.8 If Seller is unable to convey marketable title as agreed, or if the improvements on the property are materially damaged prior to closing, Buyer may terminate the agreement. Seller to pay all reasonable escrow cancellation charges. [See ft Form 183]

**10. NOTICE OF YOUR SUPPLEMENTAL PROPERTY TAX BILL:**

California property tax law requires the Assessor to revalue real property at the time the ownership of the property changes. Because of this law, you may receive one or two supplemental tax bills, depending on when your loan closes.

The supplemental tax bills are not mailed to your lender. If you have arranged for your property tax payments to be paid through an impound account, the supplemental tax bills will not be paid by your lender. It is your responsibility to pay these supplemental bills directly to the Tax Collector.

If you have any questions concerning this matter, please call your local Tax Collector's Office.

**11. LOAN DISCOUNT CONDITION (SHORT-SALE CONTINGENCY):**

11.1 Close of escrow under this agreement is conditioned on Seller obtaining payoff demands at a discount from the lienholders of record in full satisfaction of all amounts owed them.

a. The discounts are to be amounts which collectively allow Seller to fully perform on this agreement and escrow instructions without the need for escrow to call for funds from Seller to close escrow.

b. Seller on opening escrow to promptly request payoff demands from the lienholders, directly or through escrow, and diligently assist each lienholder in their analysis of their discount and processing of their payoff demand by providing them with information and documentation on themselves and this transaction.

11.2 After \_\_\_\_\_, 20\_\_\_\_\_, this agreement may be terminated by either Buyer or Seller should Seller be unable to obtain written payoff demands, or consent from the lienholders, to accept Seller's proceeds from this transaction which remain after disbursement of all costs incurred by Seller in the full performance of this agreement and escrow instructions. [See ft Form 183]

11.3 Seller may accept backup offers contingent on the cancellation of this agreement.

a. If backup offers are received, they will be submitted to the lienholders for payoff demands which may be accepted by the lienholders in lieu of a payoff demand on escrow complying with this agreement.

b. Should lienholders submit a written payoff demand in a backup offer acceptable to Seller, Seller may terminate this agreement. [See ft Form 183]

11.4 The Seller understands a discount by a lienhold in full satisfaction of the debt owed will likely have consequences on the Seller's creditworthiness and income tax reporting, and other unforeseen difficulties, including,

a. The delinquencies on payments due the lienholders and the discount allowing for payment of a lesser amount then owed may be reported by the lienholder to credit reporting agencies and adversely affect the Seller in the future.

b. The amount of the interest on the discount on the principal will be reported by the lienholder to the IRS as a 1099 Form receipt of income, and depending on the recourse or nonrecourse nature of the debt discounted, or whether secured by the Seller's principal residence, will be reported by the Seller as discharge of indebtedness income, part of the price realized on the sale or a reduction in cost basis.

c.  Seller may terminate this agreement within five days of acceptance, based on Seller's reasonable disapproval or the disapproval of tax or legal advisors to the Seller, of the consequences of this discount on Seller's credit or tax reporting, or on legal issues arising due to the discount. [See ft Form 183]

12. Buyer's Broker and sales agent hereby declare under penalty of perjury that:

- 12.1  they hold a valid, current California real estate license;
- 12.2  they hold adequate coverage via bond, errors and omissions insurance, or whatever other means which may become required by Equity Purchase laws; and
- 12.3  attached is proof of his license provided to the seller-in-foreclosure as checked below:
  - a.  a copy of his license as issued by the DRE; or
  - b.  a printout of the DRE's Current License Status for the licensee.

13. BROKERAGE FEE:

- 13.1 Parties to pay the below mentioned Broker(s) a fee now due of \_\_\_\_\_ as follows:
  - a. Seller to pay the brokerage fee on the change of ownership.
  - b. The party wrongfully preventing this change of ownership to pay the brokerage fee.
- 13.2 Buyer's Broker and Seller's Broker, respectively, to share the brokerage fee \_\_\_\_\_:\_\_\_\_\_.
- 13.3 Attached is the Agency Law Disclosure. [See ft Form 305]
- 13.4 Broker is authorized to report the sale, its price and terms for dissemination and use of participants in brokerage trade associations or listing services.

14. FURTHER CONDITIONS: \_\_\_\_\_

15. CANCELLATION PERIOD:

- 15.1 Seller has the below noticed right to cancel this agreement until midnight of the fifth business day following the day Seller signs this agreement, or until 8 a.m. on the day scheduled for a trustee's foreclosure sale of the property, whichever occurs first.

**NOTICE REQUIRED BY CALIFORNIA LAW:**

Until your right to cancel this contract has ended,

\_\_\_\_\_ (Buyer)

or anyone working for

\_\_\_\_\_ (Buyer)

**CANNOT ask you to sign or have you sign any deed or any other document.**

You may cancel this contract for the sale of your house, without any penalty or obligation at any time before \_\_\_\_\_:\_\_\_\_\_, \_\_\_\_\_m. on \_\_\_\_\_, 20\_\_\_\_\_.

See attached Notice of Cancellation form for an explanation of this right.  
(To be filled out by Buyer)

Buyer's/  
Selling Broker: \_\_\_\_\_

Broker's DRE Identification #: \_\_\_\_\_

Selling Agent: \_\_\_\_\_

Agent's DRE Identification #: \_\_\_\_\_

Signature: \_\_\_\_\_

Is the agent of:  Buyer exclusively.  
 Both Seller and Buyer.

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Seller's/  
Listing Broker: \_\_\_\_\_

Broker's DRE Identification #: \_\_\_\_\_

Listing Agent: \_\_\_\_\_

Agent's DRE Identification #: \_\_\_\_\_

Signature: \_\_\_\_\_

Is the agent of:  Seller exclusively.  
 Both Seller and Buyer.

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

I agree to the terms stated above.

See attached Signature Page Addendum. [ft Form 251]

Date: \_\_\_\_\_, 20\_\_\_\_

Buyer: \_\_\_\_\_

Signature: \_\_\_\_\_

Buyer: \_\_\_\_\_

Signature: \_\_\_\_\_

I agree to the terms stated above.

See attached Signature Page Addendum. [ft Form 251]

Date: \_\_\_\_\_, 20\_\_\_\_

Seller: \_\_\_\_\_

Signature: \_\_\_\_\_

Seller: \_\_\_\_\_

Signature: \_\_\_\_\_

**NOTICE OF CANCELLATION**

(To be filled out by Buyer)

Seller signed the Equity Purchase Agreement on \_\_\_\_\_, 20\_\_\_\_.

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before \_\_\_\_\_:\_\_\_\_\_, \_\_\_\_\_m. on \_\_\_\_\_, 20\_\_\_\_.

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice, or send a telegram to \_\_\_\_\_ (Buyer) at \_\_\_\_\_ (Business Address)

NOT LATER THAN \_\_\_\_\_:\_\_\_\_\_, \_\_\_\_\_m. on \_\_\_\_\_, 20\_\_\_\_.

I hereby cancel this transaction.

Date: \_\_\_\_\_, 20\_\_\_\_

Seller's Signature: \_\_\_\_\_

Seller's Signature: \_\_\_\_\_

**NOTICE OF CANCELLATION**

(To be filled out by Buyer)

Seller signed the Equity Purchase Agreement on \_\_\_\_\_, 20\_\_\_\_.

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before \_\_\_\_\_:\_\_\_\_\_, \_\_\_\_\_m. on \_\_\_\_\_, 20\_\_\_\_.

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice, or send a telegram to \_\_\_\_\_ (Buyer) at \_\_\_\_\_ (Business Address)

NOT LATER THAN \_\_\_\_\_:\_\_\_\_\_, \_\_\_\_\_m. on \_\_\_\_\_, 20\_\_\_\_.

I hereby cancel this transaction.

Date: \_\_\_\_\_, 20\_\_\_\_

Seller's Signature: \_\_\_\_\_

Seller's Signature: \_\_\_\_\_