GENSTONE
REALTY

Negotiating Skills – Presenting Offers Workshop Summary

Presenting Offers to Sellers

It is gratifying for a listing agent to receive notice from a buyer's agent that an offer on your listing is ready. However, there is much to do before presenting the offer to the seller. Here is what preparation is needed.

Arrange a Discussion with the Buyer's Agent

Although a face-to-face meeting is ideal, and a remote visual is the next best, a phone discussion with the documents emailed may be the most practical in many cases. Before that discussion, notify the seller an offer *(or multiple offers)* may be coming. Then, based on the seller's timing, arrange an appointment to present the offer after verifying it with the buyer's agent.

Preparation for the Offer Discussion

First, review the information about the seller's possession date, personal property included, and previous price discussions, including the original Market Data & Sales History report. If new sold/closed properties exist, update the report to reflect recent data. Those sold properties are the ones appraisers will use to determine the price the buyer's lender use for the loan amount calculation. That data may be important information for both the buyer's agent if a counter is in the future and the seller when deciding to accept the offer.

Buyer's Agent Presentation

Have the buyer's agent explain the offer thoroughly, including all addenda. Review the buyer's preapproval letter from the lender. If a cash offer, have the agent explain the source of the funds. If not, a copy of the verification. Ask for the buyer's situation and motivation, which might help the seller be more motivated to accept this buyer's offer. If there is a contingency upon the buyer's property sale, review the MLS listing to determine if the list price is at the market or the current contract and the projected closing date if it's under contract currently.

Review the Offer and Addenda

Review the emailed offer and addenda to ensure all the applicable forms are there. Are all blank areas appropriately completed? Do all forms have initials and signatures where they are required? If anything is amiss, have the agent arrange to have it corrected and email the corrected forms for presentation to the seller. If buyers used wet signatures, have scanned copies of those documents. Put all forms into a digital folder for forwarding to the seller and other parties when needed.

Presentation of the Offer(s) to the Seller

The ideal is to meet the seller face-to-face for the offer presentation or use a remote visual system to assess body language. If remote or on the phone, email the offer, addenda, and preapproval letter either before or after the presentation depending on the anticipated seller's reaction to this offer. If the offer is low, it may be best to discuss the offer before sending documents. Review the offer, the addenda, and the financial information. If needed, review the updated Market Data & Sales History report to show if the offer aligns with the current market. Prepare a basic Seller Proceeds sheet based on the offer price to include the deductions from the offer price of the brokerage fee, the mortgage(s) pay-off amount, and approximately 3% closing costs, so the seller knows the net cash from this offer. Give sellers enough information to make an informed decision.

When the Sellers Accept this Offer

- Have all owners sign and date the purchase agreement and all addenda.
- Provide paper copies or email digital copies.
- Contact the buyer's agent of the good news and make arrangements to deliver the accepted agreement and all addenda.
- Keep all the documents in a digital folder and, if preferred, a paper folder.

When the Sellers Counter or Reject the Offer

If rejecting the offer but not countering, encourage the seller to indicate what changes the offer might be acceptable to begin negotiations with the buyer's agent. If the offer was significantly below the market, give the buyer's agent the current Market Data & Sales History report of Sold properties to justify why a buyer should offer a price in line with the market. However, in most cases, instead of rejecting the offer, the seller will counter with a new offer to indicate what would be acceptable. On the counter, include a time limit for acceptance by the buyer. Return the counteroffer to the buyer's agent, explaining the proposed adjustments and encouraging the buyer to accept.

Multiple Contract Offers – Listing Agent Advocacy

When receiving multiple offers, the listing agent should follow procedures in your state for receiving multiple offers. Plan to meet the seller and present all offers at the same time. Let the seller decide with which offer to work. Assist the seller in evaluating all aspects of the offers other than just the price:

- Financial ability of the buyer:
    - Amount of earnest money deposit
    - All cash buyer
    - Percentage of the down payment
    - Type of loan – conventional, FHA, VA
- Home sale or other contingencies
- Requests for closing cost or points assistance
- Possession date

The bottom-line net cash to the seller based on any proposed deductions is as important as the offer price. Any proposed seller concessions must be deducted from the offer price to have an actual net offer. Possession may be a factor for some seller situations.

Multiple Contract Offers – Buyer's Agent Advocacy

When buyers learn of a newly listed property after a long search that is finally the right one, it's a joyful moment. However, when it appears multiple showings will produce multiple offers, their agent should assist in crafting an offer that has the best chance of being accepted by the seller. There are multiple ideas for buyer agents to utilize in multiple offer situations. Be sure to verify with the listing agent that other offers are in play.

Contact the Listing Agent

Contact the listing agent before writing the offer to find out helpful information. What closing date and possession would the seller prefer? Is there a possibility of a post-possession arrangement? How many offers are coming in? What has the seller rejected so far? Is there anything else to know before writing the offer? What's important to the seller? Some information the listing agent might not tell you for confidentiality reasons but ask for what is not confidential. That agent wants an accepted offer as much as the buyer's agent does. More information about what the sellers want helps craft a more desirable offer.

Offer Price

Make the offer above the list price, even if just $500-$1,000. That amount makes little difference to the buyer but may make a difference to the seller. Depending on the current market, consider an offer significantly above the list price as long as the buyer has the funds. If the buyer plans to be in the property for many years to allow the market to increase its value, consider a higher offer price.

Appraisal Contingency

Discuss with the buyer the possibility this offer may be higher than the appraised price. The buyer would need to pay additional cash at closing between the offer and appraised prices. The buyer will need to remove the offer's appraisal contingency if one exists in the local purchase agreement. It can be risky to do this, but it's an option.

Strengthen the Buyer's Financial Profile

Structure the offer using as many items as possible to show the financial strength of the buyer:

- Have as high an earnest money deposit as the buyer can do, even twice the normal, up to 3%
- Have the buyer make an all-cash offer and then get a mortgage loan after closing
- Indicate as high a down payment as possible with at least 20%
- Use a conventional loan of an FHA or VA loan

Have the preapproval letter as strongly worded as possible and add a professional summary of the lender providing the letter.

Settlement and Possession Dates

If the seller's preferred dates are known, use those in the agreement. If the buyer could adjust, it's one additional reason to accept this offer. If the seller could use a post possession agreement, offer that with reduced or no rent. If the buyer usually selects the closing agent, allow the seller to choose one.

What's In or Out of the Agreement

Make the offer as complete as possible with every blank filled and every initial and signature in place, so there is no need to adjust it later. Don't ask for personal property or anything else not explicitly mentioned in the MLS listing. Likewise, don't ask for any concessions. Put in a shorter deadline for acceptance to discourage the seller and agent from "shopping the offer."

Home Inspection

Although we always encourage buyers to have a home inspection with an inspection contingency, consider removing the contingency but allowing an inspection for the buyer's information. It is something the buyer decides since there is some risk, especially for an older property. An option is to shorten the inspection contingency days to have the inspection done right away, so the seller doesn't have to wait long to know if there are issues to negotiate.

Buyer Cover Letter

Have the buyer compose a cover letter to make a personal presentation to the seller. It could include:

- Background information to allow the seller to be emotionally involved
- A photo of the buyers
- Financial stability and good credit standing
- Compliment the property and why it's appealing
- Mention any point where they may be flexible, like possession dates

Escalation Clause

Consider an escalation clause when the buyer wants this property so much and, even with the other offer tactics, doesn't want to lose the bidding war. An escalation clause states that the buyer is willing to outbid other bonafide offers on the property by a certain amount, up to a ceiling price, or a "cap price" with proof of the highest offer. Use it only when you are sure other offers are coming. If not, the cap price may end up as the seller's counteroffer if there is only one offer on the table.

Escalation Clause Example

For example, one buyer may offer **$300,000** on a home with an escalation clause to outbid other offers by **$2,000** up to **$310,000**. So, if another buyer makes an offer of **$307,000**, the first buyer's escalation clause increases the offer to **$309,000:**

First offer: $300,000 (with a $2,000 escalation clause)
Another offer: $307,000
New offer: $309,000 (applying the $2,000 escalation)

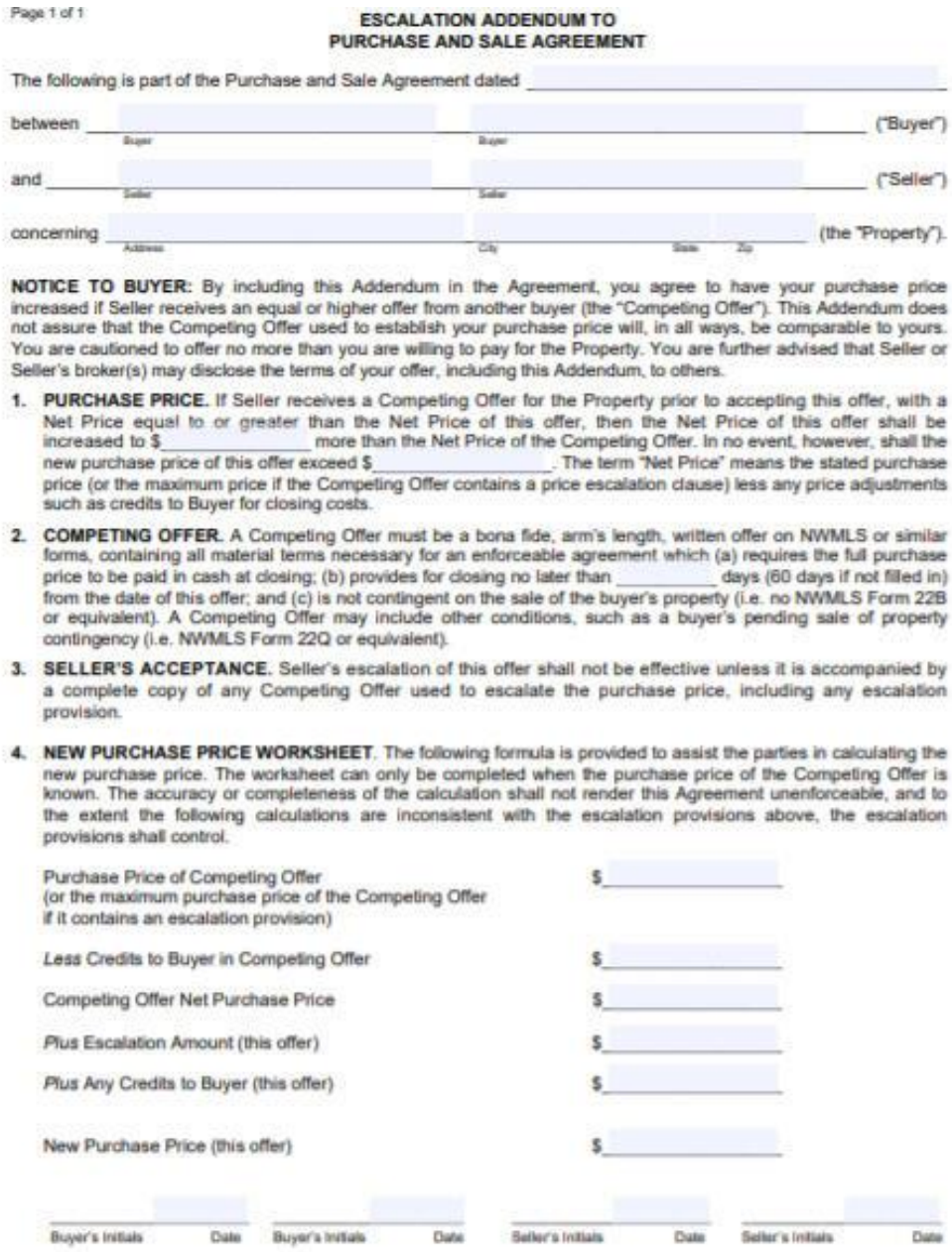
If another buyer offers $310,000, that exceeds the first buyer's cap, and that other buyer's offer is accepted.

Escalation Clause Increments

Consider the increment based on the overall price level. Increments of $1,000 - $2,000 may work for properties in the lower price range, but higher increments of up to $5,000 may be appropriate for higher-end markets. It may help to add a few hundred dollars to the thousand-dollar increments. For example, use $2,250 or $4,300 to beat out the rounded increments others may use.

Make the Escalation Noticeable

On the first page, by the offer price, add “Please see escalation clause addendum” to assure the listing agent doesn’t miss the addendum. Then, in presenting the offer to the listing agent, point out the addendum, and explain how this escalation is structured and how it works if the listing agent is not familiar with it.



Page 1 of 1

ESCALATION ADDENDUM TO
PURCHASE AND SALE AGREEMENT

The following is part of the Purchase and Sale Agreement dated _____

between _____ ("Buyer")
Buyer Buyer

and _____ ("Seller")
Seller Seller

concerning _____ _____ _____ _____ (the "Property").
Address City State Zip

NOTICE TO BUYER: By including this Addendum in the Agreement, you agree to have your purchase price increased if Seller receives an equal or higher offer from another buyer (the "Competing Offer"). This Addendum does not assure that the Competing Offer used to establish your purchase price will, in all ways, be comparable to yours. You are cautioned to offer no more than you are willing to pay for the Property. You are further advised that Seller or Seller's broker(s) may disclose the terms of your offer, including this Addendum, to others.

1. **PURCHASE PRICE.** If Seller receives a Competing Offer for the Property prior to accepting this offer, with a Net Price equal to or greater than the Net Price of this offer, then the Net Price of this offer shall be increased to $_____ more than the Net Price of the Competing Offer. In no event, however, shall the new purchase price of this offer exceed $_____. The term "Net Price" means the stated purchase price (or the maximum price if the Competing Offer contains a price escalation clause) less any price adjustments such as credits to Buyer for closing costs.
2. **COMPETING OFFER.** A Competing Offer must be a bona fide, arm's length, written offer on NWMLS or similar forms, containing all material terms necessary for an enforceable agreement which (a) requires the full purchase price to be paid in cash at closing; (b) provides for closing no later than _____ days (60 days if not filled in) from the date of this offer; and (c) is not contingent on the sale of the buyer's property (i.e. no NWMLS Form 22B or equivalent). A Competing Offer may include other conditions, such as a buyer's pending sale of property contingency (i.e. NWMLS Form 22Q or equivalent).
3. **SELLER'S ACCEPTANCE.** Seller's escalation of this offer shall not be effective unless it is accompanied by a complete copy of any Competing Offer used to escalate the purchase price, including any escalation provision.
4. **NEW PURCHASE PRICE WORKSHEET.** The following formula is provided to assist the parties in calculating the new purchase price. The worksheet can only be completed when the purchase price of the Competing Offer is known. The accuracy or completeness of the calculation shall not render this Agreement unenforceable, and to the extent the following calculations are inconsistent with the escalation provisions above, the escalation provisions shall control.

Purchase Price of Competing Offer (or the maximum purchase price of the Competing Offer if it contains an escalation provision)	$_____
Less Credits to Buyer in Competing Offer	$_____
Competing Offer Net Purchase Price	$_____
Plus Escalation Amount (this offer)	$_____
Plus Any Credits to Buyer (this offer)	$_____
New Purchase Price (this offer)	$_____

_____ _____ _____ _____ _____ _____ _____ _____
Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

Receiving the Accepted Offer with the Offer that Triggered the Escalation

The offer price used to trigger an escalation clause is the price less any seller concessions. For example, an offer of $325,000 asking the seller to pay $3,000 of the buyer’s closing costs is a net offer of $322,000. If the escalation increment of $2,250 goes into effect because of another net offer of $322,000, the escalated offer is $324,250. When the buyer receives the seller’s accepted offer, review the accompanied unredacted previous high offer to ensure it was a bonafide offer with no seller concessions.