If the contract does not state that “time is of the essence,” and you or the seller fail to perform by the stated date, the seller must still go forward with the transaction. Although the seller may be able to recover damages from you for your failure to perform by the stated date, the seller must still perform his or her obligations under the contract.

Q. Once I have entered into a contract with the seller, is there any way I can cancel it?  

A. Not without the consent of the seller unless a particular law or special (non-standard) provision in your contract grants you a right of rescission. For example, the law grants a rescission right in the following limited circumstances:

- **Residential Property Disclosure Act.** At or before the time you make your offer on a residential transaction, the seller (whether or not a real estate professional) is involved must provide you with a written disclosure covering certain conditions and characteristics of the property. If the seller does not, any resulting contract is subject to a limited right of rescission — usually up to three calendar days from the time the contract is formed. You should be aware, however, that there are a number of exceptions to this requirement. Consequently, for application of this law to a particular situation, you should consult your attorney.

- **Lead Paint Disclosure.** If you are purchasing a residential building constructed before 1978, federal law requires sellers and their agents to provide you with written information about the possible presence of lead paint and the associated hazards. If you are not given this information (and an inspection period) before entering into the purchase contract and have not signed a written waiver of your rights, you have a ten inspection period during which you may be able to cancel the contract.

Q. The seller has accepted my offer but the loan approval, inspections, or other conditions have not been met. What happens if they are not met by the stated date?  

A. If time is of the essence, depending upon whether the contract states that “time is of the essence,” and you or the seller fail to perform by the stated date, the seller must still perform his or her obligations under the contract. If the contract does not state that “time is of the essence” and, through no fault of your own, you are unable to complete the inspections by the deadline, but do so within a reasonable time, the seller still goes forward with the transaction. Although the seller may be able to recover damages from you for your failure to perform by the stated date, the seller must still perform his or her obligations under the contract.

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Q. Are there any limited rights of rescission or cancellation other than the standard offer to purchase and contract?  

A. Yes. Here are a few:

- **Option to Purchase.** With an option to purchase, you have the right to terminate the option period to buy property at an agreed upon price. For this right, you will pay option money to compensate the seller for taking the property off the market during the option period. Although subject to negotiation, option money is nonrefundable and paid directly to the seller at the signing of the option. Depending upon the terms of the option agreement, you may or may not also receive some or all of your option money against the purchase price if you exercise your option. The “Standard” offer to purchase and contract from allows the buyer to pay an “Option Fee” in exchange for the right to terminate the contract for any reason or no reason. You should read any option contract carefully and consult your attorney if you have any questions.

- **Lease with Option.** In an installment land sale (also known as a contract of sale or “lease-purchase” form available, so you are again advised to consult your attorney. If you are purchasing a new condominium from a person classified by law as a developer of a timeshare project, you have five days to cancel your purchase contract which you can do by mail if you are a resident of another state. You may also have additional rescission rights under the laws of your state. The developer must hold all funds received from you in an escrow account for at least one year. If, during the first year, you are purchasing a timeshare from another consumer or through a foreclosure sale, there is no rescission period or mandatory escrow of payments.

Q. What happens if they are not met by the stated date?  

A. If time is of the essence, depending upon whether the contract states that “time is of the essence,” and you or the seller fail to perform by the stated date, the seller must still perform his or her obligations under the contract. If the contract does not state that “time is of the essence” and, through no fault of your own, you are unable to complete the inspections by the deadline, but do so within a reasonable time, the seller still goes forward with the transaction. Although the seller may be able to recover damages from you for your failure to perform by the stated date, the seller must still perform his or her obligations under the contract.

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**Questions and Answers on Offer and Acceptance**

The offer contract is the most important document in any real estate sale. It must reflect what the parties have agreed upon in the negotiation of the offer. You need to understand what the terms and conditions of the offer are, and know how to handle them. This brochure examines issues arising during contract negotiations in residential real estate sales.

When one party accepts the other party’s offer to purchase and the other party accepts the offer, they are bound together. This binding relationship may terminate when one party accepts the other party’s offer to purchase and the other party accepts the offer.

**What is the offer and acceptance process?**

The offer and acceptance process is a legal contract between the buyer and seller. Once an offer is made, the offeror (the buyer) and the offeree (the seller) are bound to one another.

**What should be in my offer?**

Your offer should contain the following:

- **Proposal to Purchase:** This must be in writing and signed.
- **Price:** The price must be in writing and signed.
- **Terms:** The terms of the offer must be in writing and signed.
- **Conditions:** The conditions of the offer must be in writing and signed.
- **Marsh:** The marsh must be in writing and signed.
- **Guarantees:** The guarantees must be in writing and signed.
- **Inspectors:** The inspectors must be in writing and signed.
- **Inspections:** The inspections must be in writing and signed.
- **Contingencies:** The contingencies must be in writing and signed.
- **Closing:** The closing must be in writing and signed.
- **Deeds:** The deeds must be in writing and signed.
- **Plats:** The plats must be in writing and signed.
- **Deposits:** The deposits must be in writing and signed.

**What are the consequences of a verbal acceptance?**

Verbal acceptance is not sufficient. An offer must be in writing and signed to become a contract. Once the offer is in writing and signed, it becomes a binding contract.

**What should be included in my offer?**

Your offer should include:

- **Price:** The price should be in writing and signed.
- **Terms:** The terms should be in writing and signed.
- **Conditions:** The conditions should be in writing and signed.
- **Marsh:** The marsh should be in writing and signed.
- **Guarantees:** The guarantees should be in writing and signed.
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- **Deposits:** The deposits should be in writing and signed.

**What happens if the sales transaction does not close?**

If the sales transaction does not close, the offer is void and the buyer and seller are not bound to one another. The buyer and seller are not bound to one another if the offer is not accepted by the seller.