



# AMENDING THE CONTRACT

## BROKER VERSION

### When can the contract be amended?

The Offer to Purchase and Contract (Form 2-T) can be amended at any time prior to Closing. Form 2-T provides that once it is executed, it can only be changed by a writing signed by all parties to the contract.

Once the contract is fully executed, no party has an obligation to change the agreed upon terms. So, if only one party wishes to change the agreement, no amendment is possible unless all the parties agree. The contract will continue to be in full force and effect as it is written if an amendment is proposed by one party but not accepted by the other.

### What parts of the contract can be changed in an amendment?

The Purchase Price, the amount of Earnest Money, the amount of the Due Diligence Fee, contract deadlines (such as the end date of the Due Diligence Period, the date set for Settlement, etc.), and any other term, condition, or information provided in the contract.

In addition to amending items in the contract blanks, the pre-printed language can also be amended as explained later in this article.

Agreements to perform repairs on a property are generally considered an addition to the contract. A full discussion on this process is located in [Repair Requests](#).

### May changes to the names of the seller or buyer be made after the property goes under contract?

Yes. If the name of an existing party is misspelled or otherwise incorrect on the contract, striking though the error, adding the correct information, and having all the parties initial and date that change should suffice. However, if the contract names an incorrect party who needs to be removed, or fails to name a party who needs to be added, the change should be made by a more formal amendment to the [contract prepared by an attorney](#).

### How should an amendment to the contract be executed and documented?

Many common contract terms can be changed using the Agreement to Amend Contract (Form 4-T). Other standard NC REALTORS® forms can also be used to amend the contract after its execution. For example, if the buyer and seller agree after signing the contract that the buyer can move into the home prior to closing, the parties could execute the Buyer Possession Before Closing Agreement (Form 2A7-T) and add the addendum to paragraph 14 of Form 2-T to amend the contract.

If the parties wish to amend something in the contract that is not addressed in the standard NC REALTORS® forms, agents should consult with an NC attorney to have a custom addendum created for the amendment.

### Does an amendment have to be executed using an addendum, or can the parties make changes in the contract and initial them?

Amendments must be in writing, but they do not have to be in a separate writing. In some circumstances, it may be more efficient for the parties to make a change on the original contract and initial and date the change rather than executing an addendum.

Agents should make sure that if one party makes a change to the contract in this manner, then all parties initial and date the same change. Otherwise, the proposed amendment will not become effective.

Before making a change on the original contract, agents should consult with the lender to make sure that it will accept a change on the original contract with the parties' initialing and dating the change. If the lender will not accept such an amendment, an addendum should be used instead.

### Can a contract be amended more than once?

The contract can be amended as many times as the parties choose prior to Closing. Agents should make sure that each amendment is properly documented in writing to avoid any confusion.

If the parties have already executed a Form 4-T amending the contract, and then at a later time wish to make another amendment also addressed in Form 4-T, the parties can either make, initial,

and date the subsequent amendment on the same Form 4-T or execute a new Form 4-T. In either case, agents should ensure that the subsequent amendment(s) are well-documented to avoid confusion for the parties and the lender. The lender should also be consulted on this kind of amendment to ensure compliance with its requirements.

**Agents may NOT draft amendments to a contract unless they are a licensed NC Lawyer.**

### Can the pre-printed language in Form 2-T be altered or amended by agreement of the parties?

Under NCR's Forms Policy and copyright law, neither agents, nor their clients, can use a PDF editor or other computer software to delete and replace the pre-printed language in the contract.

A client may, however, strike through language in the pre-printed form or draft an addendum to the contract in order to alter the parties' obligations in Form 2-T. Agents may not draft addenda or give guidance to a client who wishes to strike through pre-printed [terms of the contract](#).

If a client wishes to alter the pre-printed language of the contract by striking through language or writing an addendum himself or herself, agents should strongly recommend that the client seek legal counsel first. If the client is not an attorney, there is a real danger that the client will draft a document or strike something that will not achieve their intended goal.

## If a buyer changes the financing they intend to use to buy the home, should the contract be amended?

In most cases, the contract will not need to be amended to reflect the buyer's changing their method of purchase. Form 2-T only asks the buyer which type of financing they "intend" to use. The buyer's intention is not binding. That said, buyers should be advised that their stated intention as to financing must be made in good faith. If the buyer makes a false statement regarding their method of purchase, the buyer would be violating their duty of good faith, which is [implied in every contract](#).

In some transactions, the buyer may seek to switch to an FHA or VA loan after the contract is executed. Since both FHA and VA loans require that the contract include the FHA/VA Financing Addendum (Form 2A4-T), then this kind of change in financing would require the contract to be amended (assuming Form 2A4-T was not part of the original contract). A seller has no obligation to agree to this kind of amendment if proposed by the buyer after the [contract is fully executed](#).

The contract would similarly need to be amended by the parties if the buyer wanted to switch to seller financing or a loan assumption during the transaction. A seller would also have no obligation to agree to this amendment either.

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## Can an agent amend the contract on their client's behalf?

As a general rule, no. Paragraph 20 of the contract provides that "[a]ll changes, additions or deletions hereto must be in writing and signed by all parties." Because neither the standard listing agreement nor the buyer agency agreement forms grant a broker the authority to sign for their client in a real estate transaction, an agent may not sign or initial for their client and bind them to a contract amendment unless they otherwise have proper authority.



A validly executed power of attorney would provide the legal ability for an agent to sign for their client. However, even when an agent has been given proper written authority to sign or initial an amendment for a client, an agent would be well-advised to exercise such authority only if there is a record confirming that the client has had an opportunity to review the amendment, if possible, or at least comprehends its essential terms.

## Is an amendment necessary to change information in the Notice Information or Acknowledgment sections of the contract?

Paragraph 20 in Form 2-T states that neither the “Notice Information” nor the “Acknowledgment of Receipt of Monies” sections are material parts of the contract. Accordingly, a change in the information provided in these sections does not require a formal amendment.

That said, to make sure that notices and communications are timely received, agents should make sure that cooperating agents and/or the other parties in the transaction have the most up to date notice information. A simple e-mail, text, or other written communication informing the other side of a change to the “Notice Information” should suffice to put the other agent and/or party on notice that the information has changed.

Similarly, agents should make sure that any documentation they have concerning the payment of any Earnest Money Deposit or Due Diligence Fee is accurate in order to comply with record-keeping requirements in the License Law. If an acknowledgment is executed, but later the information in the acknowledgment becomes inaccurate, a new, corrected acknowledgment should be executed unless the change can be easily made and reflected on the original acknowledgment.