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Warranties, BINSR & AS IS
by
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Seller Warranties

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Why Seller Warranties?

- Most buyers believe agreed upon price includes working major property systems
- Lender/Appraisal requirements
- Majority of buyer claims involve property condition

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AAR Residential Contract & BINSR

5. WARRANTIES



5a. 166. Seller Warranties. Seller warrants and shall maintain and repair the Premises so that at the earlier of possession or CDE: (i) all 167. heating, cooling, mechanical, plumbing, and electrical systems (including swimming pool and/or spa, misters, filter systems, dehumidifiers, and heaters, if any), free-standing range/oven, and built-in appliances will be in working condition; (ii) all other agreed upon 168. repairs and corrections will be completed pursuant to Section 16; (iii) the Premises, including all additional existing personal property 170. included in the sale, will be in substantially the same condition as on the date of Contract acceptance; and (iv) all personal property 171. not included in the sale and all debris will be removed from the Premises.

- Heating system
- Cooling System
- Mechanical System
- Plumbing System
- Electrical System
- Swimming Pool/Spa motors
- filter systems
- cleaning systems
- heaters
- Range/Oven/Built-in Appliances


No Laundry List

- A system “combination of interacting or interdependent *components* assembled to carry out one or more functions.” In other words, all the **parts required to operate.**

Working Condition
Functioning as intended or operational

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Repairs Pursuant to Section 6j

6j. 236. **Buyer Disapproval:** If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller notice
 237. of the items disapproved and state in the notice that Buyer elects to either:
 238. (1) immediately cancel this Contract and all Earnest Money shall be released to Buyer, or
 239. (2) provide the Seller an opportunity to correct the items disapproved, in which case:


240. (a) Seller shall respond in writing within five (5) days or _____ days after delivery to Seller of Buyer's notice of items
 241. disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed
 242. Seller's refusal to correct any of the items disapproved.

243. (b) If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a
 244. workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days
 245. or _____ days prior to COE Date.

246. (c) If Seller is unwilling or unable to correct any of the items disapproved, Buyer may cancel this Contract within five (5) days
 247. after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first, and all
 248. Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as provided,
 249. Buyer shall close escrow without correction of those items that Seller has not agreed in writing to correct.





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Licensed Contractor?

Many common minor repairs can be adequately performed in a workman like manner by the homeowner or a handyman in a more cost-effective manner.

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Unless Required by Law

A contractor's license is required by statute for work that exceeds \$1,000 in value and certain other work regardless of cost.

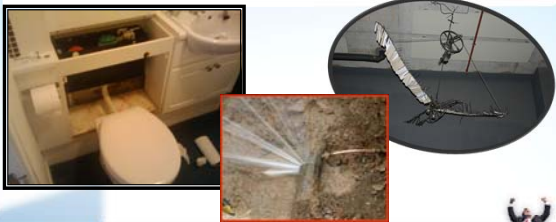


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Notice of Non-Working Warranted Items

6k. 255. Notice of Non-Working Warranted Items: Buyer shall provide Seller with notice of any non-working warranted item(s) of which 256. Buyer becomes aware during the Inspection Period or the Seller warranty for that item(s) shall be waived. Delivery of such notice 257. shall not affect Seller's obligation to maintain or repair the warranted item(s).



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RESIDENTIAL BUYER'S INSPECTION NOTICE AND SELLER'S RESPONSE

Document updated February 2011

Buyer acknowledges that:

- (a) All desired Inspection Period inspections and investigations must be completed prior to delivering this notice to Seller;
- (b) All Inspection Period items disapproved must be provided in this notice;
- (c) Items disapproved shall not include warranted items (see page 2 regarding notice of non-working warranted items);
- (d) Buyer's election is limited to the options specified below;
- (e) Buyer is not entitled to change or modify Buyer's election after this notice is delivered to Seller.


Notice of non-working warranted items: See page 2 >>

Residential Buyer's Inspection Notice and Seller's Response - Updated February 2011 - Copyright © 2011 Arizona Association of REALTORS®. All rights reserved.

NOTICE OF NON-WORKING WARRANTED ITEMS


Pursuant to Section 5a of the Contract the Seller is obligated to maintain and repair the Premises so that at the earlier of possession or COE all warranted items will be in working condition. To comply with Section 6k of the Contract, Buyer provides Seller with notice of the following non-working warranted item(s) of which Buyer has become aware during the Inspection Period.

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What if . . .

- **The buyer discovers a non-working warranted item during the inspection period but does not notify the seller?**
 - The seller warranty for that item is waived. In other words, the seller is not obligated to repair the item.
- **There is a non-working warranted item that the buyer discovers after the inspection period, but prior to close of escrow?**
 - The seller is obligated to repair the item and deliver it in working condition at close of escrow.




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What if . . .

- **The buyer gives notice of a non-working warranted item under “items disapproved,”**
- **The buyer gives notice of a non-warranted item under the “Notice of Non-working Warranted Items”**
 - does not relieve the seller of their obligation to repair the item and deliver it in working condition at close of escrow.
 - the seller can address the error in the seller’s response section of the BINSR





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“AS IS” - No Seller Warranties



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"AS IS" ADDENDUM Document updated:
February 2011


8. A. Seller and Buyer agree that the Premises is being sold in its existing condition ("AS IS") and Seller makes no warranty to Buyer, either express or implied, as to the (1) condition of the Premises, including, but not limited to, Seller's Warranties in Lines 166-168 of Section 5a, which Buyer hereby waives; (2) zoning of the Premises; or (3) Premises' fitness for any particular use or purpose. However, Seller warrants and shall maintain and repair the Premises so that, pursuant to lines 109-170, at the earlier of possession or COE, the Premises, including all additional existing personal property included in the sale, will be in substantially the same condition as on the date of Contract acceptance and all personal property not included in the sale and all debris will be removed from the Premises.

If the seller does not want to warrant a specific item

- exclude the item in the Additional Terms and Conditions Section of the Contract



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Warranted item is not in working condition at close of escrow


- Immediately **deliver a cure notice** to the seller
– box two on the **Buyer Pre-Closing Walkthrough form**.
- The buyer may then **delay closing** for up to three days to allow the seller the opportunity to cure the non-compliance and repair the warranted item

OR

- The buyer may **close escrow subject to the potential breach** and if the seller fails to make the repair within three days, pursue the seller for the breach.



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Future of Seller Warranties?





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