

Redraft of the Car Purchase Agreement S

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UPDATE - 10-1-2024: To help you with better drafting the inspection article, make sure you see [this video regarding How to Draft the Inspection Article](#) ➡


<https://northwestern.hosted.panopto.com/Panopto/Pages/Viewer.aspx?id=5ebae852-e76a-4827-91fe-b08900475428>) and [the document that I walk through in the video](#)

<https://canvas.northwestern.edu/courses/220985/files/20012260?wrap=1>)_ ↓

https://canvas.northwestern.edu/courses/220985/files/20012260/download?download_frd=1) . Everyone should watch this video - it doesn't matter at what stage of drafting you are at right now.

A. General Instructions

- **Graded Assignment.** As included in the [Syllabus](#) (<https://canvas.northwestern.edu/courses/220985/pages/syllabus>), this is an individual assignment worth 25% of your semester grade, due by Tuesday, October 8, 2024 by 4:30 pm (7th Class) and should be turned in here in Canvas.
- **Review 1st Draft.** Note that this exercise asks you to revise your earlier draft based on [the 1st Draft of the Car Purchase Agreement](#) (<https://canvas.northwestern.edu/courses/220985/assignments/1445040>).
- **Do Not Wait.** However, do not wait to get comments back on the [1st Draft](#) (<https://canvas.northwestern.edu/courses/220985/assignments/1445040>) to start the assignment. There are new facts in this new assignment that need to be added, and you do not want to wait until the last minute. We will give you specific, more focused assignments too for each week on the Redraft - do them, so you can ask questions in class and get the most out of classes.
- **Pseudonym.** Create a pseudonym (a fake, made up name or word(s)) that appear on the paper itself at the top of the page. **Do not put your real name on the paper or file name.**
- **1st Draft of Car Purchase Agreement and House Purchase Agreement Precedent.**
 - Open the [1st Draft of the Car Purchase Agreement](#) (<https://canvas.northwestern.edu/courses/220985/assignments/1445040>) that you turned in, save it as a new document, and start making changes for the Redraft.
 - As you did with the 1st Draft, continue to use as a foundation [the House Purchase Agreement](#) (<https://canvas.northwestern.edu/courses/220985/files/19814682?wrap=1>)_ ↓ (https://canvas.northwestern.edu/courses/220985/files/19814682/download?download_frd=1) and rely on that structure as much as possible, including for which articles to include, language, formatting, numbering, etc.

- Make sure you keep the formatting in the House Purchase Agreement. You do need to add new information and further organize some of that new information, but use the same numbering / lettering levels as in the House Purchase Agreement. If you need to create a new sub-section for which there isn't a number / letter yet, use whatever you want that makes sense.
- **Feedback and Resources to Use.**
 - **General Comments.** Make sure you have reviewed and incorporated the comments that I made to your [1st Draft](https://canvas.northwestern.edu/courses/220985/assignments/1445040) (<https://canvas.northwestern.edu/courses/220985/assignments/1445040>) and *the 1st Draft of the Car Purchase Agreement - General Comments* [compilation of comments to be finalized and published after I go through your 1st Drafts]. I will let you know once I have gone through your 1st Drafts, will provide you my specific comments to your 1st Draft, and will make available the Canvas page with the general comments.
 - **Contract Drafting Checklist.** Feel free to use the following [Contract Drafting Checklist](https://canvas.northwestern.edu/courses/220985/files/19847357?wrap=1) (<https://canvas.northwestern.edu/courses/220985/files/19847357?wrap=1>)  (https://canvas.northwestern.edu/courses/220985/files/19847357/download?download_frd=1) put together by Karen Hsu '22 (former student and TA) with input from former students to check your contract, especially at the very end. We will ask you for your feedback and suggestions for this checklist after you turn in the assignment, if you used it (no pressure, though - only if it's helpful to you).
 - **Participate in Class.** Come to class ready to share your experiences and thoughts, especially if you haven't as much in the last few weeks.
- **Do Not Talk to Others About this Assignment.** Please do not work with others on this assignment. If you want to talk through these issues with someone, reach out to Ari (ariadna.mari@law.northwestern.edu (<mailto:ariadna.mari@law.northwestern.edu>)) or Monica (m-llorente@law.northwestern.edu (<mailto:m-llorente@law.northwestern.edu>)).

B. Specific Instructions & Facts

- **Context.** Assume that the contract has not yet been executed. Each of these provisions is part of the original contract and does not amend an existing agreement. As in the 1st Draft of the Car Purchase Agreement, assume that no statutes apply to this transaction.
- **Integration of Facts.** Continue replacing the relevant, corresponding facts in the 1st Draft you put together.
- **Figuring Out What to Add.** Carefully review each fact or issue below to identify the various places within the purchase agreement where additions may be necessary. This may be in more than one place (definitions, purchase & sale, reps & ws, covenants, conditions to closing, termination, etc.).

- Key Focus Areas. Some facts may require that you just use one contract concept and add something only in one part of the contract. However, other facts may require that you use more than one contract concept and that you add something in more than one place in the contract. Pay particular attention to Facts #1, #4, and #6, as they may require modifications in multiple sections of the contract.
- **The Facts to Add.** Take these facts and add them to your 1st Draft of the Car Purchase Agreement for the Redraft:
 1. The Buyer has decided that it may want to do a bit of due diligence and not rely solely on the Seller's representations and warranties. The Seller has agreed that the Buyer has the right not to close if a mechanic of the Buyer's choice determines that the car is not in the condition represented. The Buyer has agreed to pay for the inspection.
 - You may create whatever facts you want to draft these business terms.
 - Think about how the inspection would actually take place.
 - What would be the sequence of events?
 - For example, how does the car get to the mechanic? How will the parties know what the mechanic concluded? How will the mechanic be paid?
 - Draft these provisions from the Buyer's perspective, but in a manner that would be reasonably acceptable to the other side.
 - In deciding how to draft the provisions about the inspection, also think about the contract's organization. Would it be more helpful to the reader to separate the provisions by contract concept or to put all the related provisions together or do some combination?
 - This is a right which Buyer may or may not exercise. Consider giving this significant event an article of its own. Pay close attention here to *who* needs to do *what* here. Who will coordinate with the mechanic? How will the mechanic deliver his opinion and what will be the standard? What happens if the opinion is favorable? Unfavorable?
 - Your inspection provisions should be elaborate. You should lay out in your agreement step-by-step what each party needs to do, what needs to happen at every step of the inspection, etc. Also, look carefully at the instructions for the inspection - especially the first sentence to figure out how to set up the inspection from the beginning.
 2. The Seller is insisting on a 10% down payment to be paid concurrently with the execution and delivery of the parties' agreement. She also wants an additional 10% down payment after completion of the mechanic's inspection. The Buyer will make all the payments by certified check.
 - You want the purchase price with any down payments to be very clear and be all together. You want to make sure that the parties go to one place to see how the purchase price will be paid. Each down payment should also be explained in the same way as much as possible. Think organization and clarity. Look at some of the examples from class or the book because it may help where the provisions are tabulated (listed out in a list with sub-sections for each). We will talk more about tabulation in the future.

3. The car's vehicle identification number is 23456.
 - Where should this go?
4. The Buyer has been looking for a job as an associate at a law firm and has received an offer from Hie Power & Stress LLP. He wants to be able to call off the closing if he does not receive the promised \$5,000 sign-on bonus. To induce the Seller to accept this proposal, the Buyer agreed that if the Buyer did not close because he did not receive his sign-on bonus, the Seller could keep the first down payment. The Seller would also like some assurance in the contract that the Buyer has received an offer from Hie Power.
 - In addition, think about whether someone needs to do something between signing and closing on this issue.
5. The Seller has agreed to deliver two extra set of keys, all accessories, the owner's manual and any other manuals, and two extra tires to the Buyer's home on the Closing Date after the Closing.
6. The Seller has told the Buyer that the car is still under the original manufacturer's warranty and that she has the documentation. The Seller has also said that the car's manufacturer's warranty is extensive and for example covers a lot of different issues relating to components, powertrain, accessories, emissions, etc. One of the main highlights of the warranty is: "Acura will repair or replace any part that is defective in material or workmanship under normal use for 4 years or 50,000 miles." The Seller believes the warranty is still effective until December 31, 2024, and that she has all the documentation for the warranty. The Buyer was delighted to learn this but wants to know what the warranty provides and if it is still valid. He is not a trusting person and is unwilling to rely on what the Seller remembers about the warranty. If he is not able to learn what the warranty coverage is or if the warranty is no longer valid, he does not want to purchase the car.
 - Without stating the details of the warranty, provide the Buyer with the comfort he has asked for.
 - The Buyer can check whether the warranty is valid by having the mechanic doing the inspection verify this information or by calling Acura directly to verify the information.
 - Do NOT worry about the details of the warranty. What kinds of things is Seller asserting and what kinds of protections is Buyer seeking? In addition, think about whether someone needs to do something between signing and closing on this issue. Also, what happens if the warranty is defective? What would the parties want to do - particularly the Buyer?
7. If either party makes a misrepresentation or breaches a warranty or covenant, the contract should terminate.
 - The House Purchase Agreement precedent that I gave you to start with already covers the ideas so, using that language is enough.
8. When working through the endgame provisions, *follow the cash* and provide for what happens with each of the down payments if the transaction does not close and is terminated. If the facts do not state which party is entitled to one or both of the down payments under a


particular circumstance, think through what makes sense from the buyer's business perspective and draft accordingly.

9. The closing will take place at 1:00 p.m. at the office of the Buyer's lawyers: Workhard & Succeed LLP. Its address is 278 Appletree Lane, Glencoe, Illinois.

C. Important Reminders

1. Use Times New Roman, 12 point font.

2. Termination and General Provisions.

- For the Redraft, please do include both termination and general provisions!
- Do spend time on your termination provisions. It may help to make a quick outline of the grounds for termination and what happens with each down payment for each of the grounds using [the termination charts in Exercise 17B](https://canvas.northwestern.edu/courses/220985/files/19947582?wrap=1) (<https://canvas.northwestern.edu/courses/220985/files/19947582?wrap=1>)  (https://canvas.northwestern.edu/courses/220985/files/19947582/download?download_frd=1) which we went over in class or a similar system. Then, go to the "Payments" section in the termination provisions and summarize what is supposed to happen with each down payment. We will go over these termination / endgame provisions in more detail in class.
- Include a General Provisions Article that you think makes sense under the circumstances, but don't worry about that article as much.

3. How to Fill In Some Sections:

- **Date of Agreement & Closing Date.** Make the date the assignment is due the date of the agreement on the first page: October 8, 2024. The closing would then be on November 30, 2024.
- **Definitions.** You probably need to add more terms in the Definitions section. Remember that your definitions need to be listed in alphabetical order. Also, make sure that you use the terms you have defined consistently and that you capitalize the defined term each time you use it. Finally, whenever you see yourself writing the same thing out each time after you use a term, you should look at including that information in the definition. Remember, it might be easiest to highlight significant terms in the contract as you go, and determine what is *definition-worthy* at the end. This way you aren't constantly making incremental changes to the definition section and don't accidentally leave anything out.
- **Exhibits.** You don't need to draft the exhibits - please don't. But, please still include and reference them in the agreement.
- **Notices.** For Section 9.7 (in the original House Purchase Agreement) on Notices, make up physical addresses in Illinois and email addresses for the Seller and the Buyer.

4. Buyer's Covenants.

- I expect you to put in a separate buyer's covenants article with Buyer's covenants there for the Redraft of the Car Purchase Agreement. In this new article, think carefully about the specific buyer's covenants you will need and include them in this new separate article.

- Keep in mind that certain items, like the purchase price, are technically Buyer's covenants but should remain in their current sections rather than being moved to the new Buyer's Covenants article. It's important not to duplicate these elements in both places - having them appear only once in the appropriate section keeps the contract simpler and clearer.
- However, there are additional covenants that the seller would ask the buyer to include in this agreement. Something helpful to keep in mind is that significant details introduced earlier in the contract usually have a corresponding section later on where they need to be addressed. For instance, if the Buyer is expected to receive an offer or bonus, this expectation will need to be revisited later in the contract to address whether or not it materializes, as its outcome will have implications. Make sure there are no loose ends left unresolved within the contract.

5. Ask Your Client.

- If you do not know something or cannot fill in the contract, ask your client (in this case, me) – even if it's the day before the assignment is due.
- Email me at m-llorente@law.northwestern.edu (<mailto:m-llorente@law.northwestern.edu>).

6. Clarity and Uniformity.

- Make sure that you use the terms you have defined consistently and you use the same titles for sections, when possible. This is difficult for every lawyer.

7. Any Other Inconsistencies or Issues You Find.

- If you find any issues like the above in the Car Purchase Agreement or have any questions, feel free to turn in a clean version of your assignment (without issues or questions) and a version of the assignment with your issues and/or questions in comment boxes throughout. I do want the clean version so that you're forced to make choices.
- If you want to just ask me later, that's ok too.
- It would be helpful for me to see your questions / comments, but don't want to create extra work for everyone. If you submit it as separate documents, don't worry because I can see all submissions.

8. If Already Turned In & Need To Make Changes.

- If you have already turned it in and need to make changes for any reason, re-turn it in before the deadline when you can.
- I can see every item you submit and will look at the one you tell me to look at - presumably the latest one.

C. Assessment

- When I look at your Redraft, I will go through your entire contract and give points for each section of the contract with all points adding up to a possible total of 100:
 - Title, Preamble, Background (4 points)
 - Definitions (12 points)
 - Purchase and Sale (16 points)

- Seller's Deliveries (8 points)
 - Buyer's Deliveries (8 points)
 - Seller's Representations and Warranties (5 points)
 - Buyer's Representations and Warranties (5 points)
 - Seller's Covenants (5 points)
 - Buyer's Covenants (5 points)
 - Mechanic Inspection Provisions (15 points)
 - Seller's Conditions (6 points)
 - Buyer's Conditions (6 points)
 - Termination (12 points)
 - General Provisions & Signature Lines (4 points)
 - Other (formatting, no hanging lines on one page, etc.) (5 points)
-

◦ As I look at each section of your contract, I will focus on:

- **Content**
 - Included all terms for the clients
 - How substantive or specific the provisions were
 - **Use of Contract Concepts**
 - How you used contract concepts (representations & warranties, covenants = shall, etc.)
 - Included all parts of the contract
 - **Organization**
 - How were the different articles, sections, sub-sections organized
 - **Clarity of Language**
 - How clear was the new language drafted
 - **Flow of Contract**
 - How did the different parts of the contract work together
 - How do you go from one section to the other
-

Points 0

Submitting a text entry box, a website url, a media recording, or a file upload

Due	For	Available from	Until
Oct 8, 2024 at 4:30pm	Everyone	-	-

+ Rubric