

NEW CONSTRUCTION PURCHASE AND SALE AGREEMENT

1 **1. Purchase and Sale.**

2 For and in consideration of mutual covenants herein and other good and valuable consideration, the receipt and
3 sufficiency of which is hereby acknowledged, the undersigned buyer

4 _____ (“Buyer”) agrees to buy and the
5 undersigned seller _____ (“Seller”)

6 agrees to sell all that tract or parcel of land, with such improvements as are located thereon, described as follows:

7 All that tract of land lying and being Lot # _____ of _____ subdivision

8 and being known as: _____

9 (“Address”) _____ (“City”), Tennessee, _____ (“Zip”), as recorded in

10 _____ County Register of Deeds Office, deed book(s), _____ page(s), _____ and

11 as further described as:

12 _____
13 together with all fixtures, landscaping, improvements, and appurtenances, all being hereinafter collectively referred to as
14 the “Property.”

15 **A. LEASED ITEMS.** Leased items that remain with the Property (e.g. fuel tank, etc.)
16 _____ Future lease payments shall be the responsibility of
17 _____. If leases are not assumable, it will be Seller’s responsibility to pay balance.

18 **B. FUEL.** Fuel, if any, will be adjusted and charged to the Buyer and credited to the Seller at closing at current market
19 prices.

20 **2. Purchase Price, Method of Payment and Closing Expenses.** Buyer warrants that, except as may be otherwise
21 provided herein, Buyer will at closing have sufficient cash to complete the purchase of the Property. The purchase price
22 to be paid is: \$ _____,
23 U.S. Dollars, (“Purchase Price”) which shall be disbursed at Buyer’s expense and paid to Seller or Seller’s Closing
24 Agency in the same form as deemed acceptable under the Tennessee Residential Closing Funds Distribution Act of 2005,
25 as amended in Tenn. Code Ann. §47-32-101, et seq.

26 **A. APPRAISAL (Select either A or B below. The sections not checked are not a part of this Agreement.)**

- 27 **1.** This Agreement **IS NOT** contingent upon the appraised value either equaling or exceeding the agreed upon
28 Purchase Price.
- 29 **2.** This Agreement **IS CONTINGENT** upon the appraised value either equaling or exceeding the agreed
30 upon Purchase Price. If appraised value is equal to or exceeds Purchase Price, this contingency is satisfied.
31 If the appraised value of the Property does not equal or exceed the Purchase Price, the Buyer may terminate
32 this Agreement by providing written notice to the Seller and providing written proof of the same (e.g. copy
33 of appraisal, signed letter from Lender). Upon Termination, Buyer is entitled to refund of the Earnest
34 Money.

35 **B. Closing Costs and Discount Points:**

36 **1. Seller Expenses.** Seller shall pay all existing loans and/or liens affecting the Property, including all penalties,
37 release preparation costs, and applicable recording costs; Seller’s closing fee, document preparation fee and/or
38 attorney’s fees; fee for preparation of deed; and notary fee on deed.

39 **2. Buyer Expenses.** Buyer shall pay all transfer taxes and recording fees on deed of conveyance and deed of trust;
40 Buyer’s closing fee, document preparation fee and/or attorney’s fees; preparation of note, deed of trust, and
41 other loan documents; mortgage loan inspection or boundary line survey; credit report; required premiums for
42 private mortgage, hazard and flood insurance; required reserved deposits for insurance premiums and taxes;
43 prepaid interest; re-inspection fees pursuant to appraisal; and any costs incident to obtaining and closing a loan,
44 including but not limited to: appraisal, origination, discount points, application, commitment, underwriting,
45 document review, courier, assignment, photo, tax service and notary fees.

46 **3. Title Expenses.** Cost of title search or abstract, mortgagee’s policy and owner’s policy shall be paid as follows:
47 _____



48 Buyer to receive benefit of simultaneous issue.

49 Not all of the above items are applicable to every transaction and may be modified as follows:

50 _____
51 _____

52 **Closing Agency for Buyer:** _____

53 **Closing Agency for Seller:** _____

54 **Title Company:** _____
55 or other Closing Agency as mutually agreed by Seller and Buyer.

56 **C. Financial Contingency – Loan(s) To Be Obtained:** This Agreement is conditioned upon Buyer’s ability to obtain
57 a loan(s) in the principal amount up to ____% of the Purchase Price listed above to be secured by a deed of trust on
58 the Property. “Ability to obtain” as used herein means that Buyer is qualified to receive the loan described herein
59 based upon Lender’s customary and standard underwriting criteria. In the event Buyer, having acted in good faith
60 and in accordance with the terms below, is unable to obtain financing, Buyer may terminate this Agreement by
61 providing written notice and a copy of Lender’s loan denial letter. Upon termination, Buyer is entitled to a refund of
62 the Earnest Money. Lender is defined herein as the financial institution funding the loan.

63 The loan shall be of the type selected below:

- 64 Conventional Loan FHA Loan; attach addendum
- 65 VA Loan; attach addendum Other _____

66 **Loan Obligations:** The Buyer agrees and/or certifies as follows:

- 67 1) Within five (5) days after the Binding Agreement Date Buyer shall:
 - 68 a. Make application for the loan;
 - 69 b. Pay any fees necessary to complete full loan processing and approval; and
 - 70 c. Instruct Lender to order credit report and appraisal;
- 71 2) To pursue qualification for and approval of the loan diligently and in good faith;
- 72 3) To immediately notify Seller or Seller’s representative of having applied for the loan and Lender’s name
73 and contact information;
- 74 4) To continually and immediately provide requested documentation to Lender;
- 75 5) Unless otherwise stated in this Agreement, Buyer represents that this loan is not contingent upon the lease
76 or sale of any other real property and the same shall not be used as the basis for loan denial; and
- 77 6) Buyer shall not intentionally make any material changes in Buyer’s financial condition which would
78 adversely affect Buyer’s ability to obtain the Primary Loan or any other loan referenced herein.

80 Should Buyer fail to make timely application and provide notice as required in (1)(a) and (3) above, Seller may
81 make written demand for compliance. If Buyer does not furnish Seller written evidence of application within one
82 (1) day after such notice, Seller’s obligation to sell is terminated and Buyer shall be considered in default. Buyer
83 may also apply for a loan with different terms and conditions and also close the transaction provided all other terms
84 and conditions of this Agreement are fulfilled, and the new loan does not increase any costs charged to Seller.
85 Buyer shall be obligated to close this transaction if Buyer has the ability to obtain a loan with terms as described
86 herein and/or any other loan for which Buyer has applied and been approved. Within twenty (20) days after Binding
87 Agreement Date, Buyer shall provide to Seller or Seller’s representative a conditional commitment letter from the
88 Buyer’s Lender providing reasonable assurance of Buyer’s ability to obtain the financing contemplated by this
89 Agreement. Said letter shall be in a form and substance acceptable to Seller at Seller’s reasonable discretion;
90 however, a letter from Lender verifying that Buyer has available funds to close, credit and appraisal acceptable to
91 Lender, and employment or income necessary to obtain said loan shall be deemed acceptable. Seller shall have the
92 right to terminate this Agreement with written notice to Buyer if said letter is not timely received, in which case
93 Earnest Money shall be returned to Buyer.

94 **THIS BOX MUST BE CHECKED IN ORDER FOR IT TO BE A PART OF THIS AGREEMENT.**

- 95 **Financing Contingency Waived** (e.g. “All Cash”, etc.): Buyer’s obligation to close shall not be subject to any
96 financial contingency. Buyer reserves the right to obtain a loan. Buyer will furnish proof of available funds to close



97 in the following manner: _____ (e.g. bank
98 statement, Lender's commitment letter) within five (5) days after Binding Agreement Date. Failure to close due to
99 lack of funds shall be considered default by Buyer.

100 **3. Deposit Money.** Buyer has paid or will pay within _____ days after the Binding Agreement to
101 _____ (name of Holder) located
102 at _____ (address of Holder) a
103 deposit of \$ _____ by check (OR _____) ("Deposit
104 Money"). In the event any Deposit Money check is not honored, for any reason, by the bank upon which it is drawn,
105 Holder shall promptly notify Buyer and Seller. Buyer shall have one (1) day after notice to deliver good funds to Holder.
106 In the event Buyer does not timely deliver good funds, the Seller shall have the right to terminate this Agreement upon
107 written notice to Buyer. Deposit Money is to be deposited promptly after the Binding Agreement Date or the agreed
108 upon delivery date in this Deposit Money paragraph or as specified in the Special Stipulations paragraph contained at
109 paragraph 29 herein. Holder shall disburse Deposit Money only as follows:

- 110 (a) at closing to be applied as a credit toward Buyer's Purchase Price;
- 111 (b) upon a written agreement signed by all parties having an interest in the funds;
- 112 (c) upon order of a court or arbitrator having jurisdiction over any dispute involving the Deposit Money;
- 113 (d) upon a reasonable interpretation of the Agreement; or
- 114 (e) upon the filing of an interpleader action with payment to be made to the clerk of the court having jurisdiction
115 over the matter.

116 Holder shall be reimbursed for, and may deduct from any funds interpleaded, its costs and expenses, including
117 reasonable attorney's fees. The prevailing party in the interpleader action shall be entitled to collect from the other party
118 the costs and expenses reimbursed to Holder. No party shall seek damages from Holder (nor shall Holder be liable for
119 the same) for any matter arising out of or related to the performance of Holder's duties related to the performance of
120 Holder's duties under this Deposit Money paragraph. Deposit Money shall not be disbursed prior to fourteen (14) days
121 after deposit unless written evidence of clearance by bank is provided.

122 **4. Limitations.** The home shall be constructed in accordance with good building practices and substantial accordance with
123 the plans and specifications selected and approved by the Buyer. Seller expressly reserves the right to make such
124 changes or substitutions in the construction of the home

- 125 (a) as may be required, authorized, or approved by governmental agencies having jurisdiction therefore, or
- 126 (b) as Seller may deem appropriate so long as materials of equal or better quality are used, or
- 127 (c) as may be otherwise reasonably required as long as changes which affect the aesthetics or livability of the home
128 shall be subject to the Buyer's approval.

129 **5. Plans and Specifications.** Plan and Specifications are / are not attached and signed by Seller and Buyer.

130 **6. Contractors and/or Suppliers.** All work and materials to be performed or supplied under this Agreement shall be
131 performed and supplied by Seller's own contractors, subcontractors, employees, agents, materialmen and suppliers.
132 Buyer shall not have the right to have any work performed or supplies delivered to the Property at Buyer's own direction
133 prior to closing.

134 **7. Decorative Selections.** If there are decorative selections yet to be selected in the completion of the residence, Buyer
135 shall have the option to make those selections from available stock at Seller's normal sources of supply. Buyer
136 understands that it is Buyer's responsibility to make all selections by the dates provided and further understands that if
137 the selections have not been made by the agreed date, that Seller may give Buyer notice of such missing selections and
138 the choices made by the Seller. Seller choices are hereby deemed agreed to and acceptable to Buyer after three (3) days
139 of given notice.

140 **8. Change Orders.** Buyer agrees that any request for changes or alterations ("change orders") to the residence will be set
141 forth in writing and delivered to Seller. Any requested change order must be in writing and signed by Buyer and Seller.
142 No subcontractor, workman or materialman has authority to agree on behalf of Seller to any change order. Buyer agrees
143 that all change order requests must be presented to Seller so as to allow Seller adequate lead time to schedule the change
144 orders into the normal building sequence. Seller has the right to refuse to make changes/alterations that are requested.
145 Buyer agrees to pay Seller in advance of the performance of work necessitated by agreed change orders and further
146 understands that there will be no refunds, under any circumstances, of payments made by Buyer for change orders.
147 Buyer further acknowledges that any work done on the home pursuant to change orders or additions may not increase the



148 appraised value of the Property. Seller shall not be responsible if increases in the price of the Property due to change
149 orders or additions are not reflected in the appraised value of (and resulting available loan for) the Property.

150 **9. Allowances.** New Construction Allowance Addendum is / is not attached and signed by Seller and Buyer.

151 **10. Delays.** Seller shall have no liability for any delays in construction caused by strikes, acts of God or nature, or delays
152 directly caused by Buyer's change orders and/or selection of materials. In the event of such delays, the closing date may
153 be extended by the number of days resulting from such delays, not to exceed thirty (30) calendar days; Seller shall notify
154 Buyer of any such delays. Inclement weather or other delays shall not extend the performance date unless they prevent
155 the completion of work which would otherwise have been actually performed.

156 **11. Closing, Prorations, Special Assessments and Warranties Transfer.**

157 **A. Closing Date.** This transaction shall be closed (evidenced by delivery of warranty deed and payment of Purchase
158 Price), and this Agreement shall expire, at 11:59 p.m. on the _____ day of _____,
159 _____, or on such earlier date as may be agreed to by the parties in writing. Such expiration does not
160 extinguish a party's right to pursue remedies in the event of default. Any extension of this date must be agreed to by
161 the parties in writing.

162 **1. Possession.** Possession of the Property is to be given:

163 with delivery of warranty deed and payment of Purchase Price; or

164 on _____ at _____ o'clock am/ pm, local time; or

165 no later than _____ o'clock am/ pm, local time on the ____ day after closing.

166 Occupancy Agreement attached

167 **B. Household Goods.** The movement of any household goods or other materials by Buyer into the home will not be
168 permitted until the home has been completed and the total Purchase Price has been paid.

169 **C. Prorations.** Real estate taxes, rents, dues, maintenance fees, and association fees on said Property for the calendar
170 year in which the sale is closed shall be prorated as of the date of closing. In the event of a change or reassessment
171 of taxes for the calendar year after closing, the parties agree to pay their recalculated share. Taxes for prior years
172 and roll back taxes, if any, will be paid by Seller.

173 **D. Special Assessments.** Special assessments approved or levied prior to the closing date shall be paid by the Seller at
174 or prior to closing unless otherwise agreed as follows:
175 _____

176 **E. Warranties Transfer.** Seller agrees to transfer to Buyer, at closing, subject to Buyer's acceptance thereof, Seller's
177 interest in any manufacturer's warranties, service contracts, and/or other similar warranties which by their terms
178 may be transferable to Buyer.

179 **F. Closing Certifications.** Buyer and Seller shall execute and deliver such certifications, affidavits, and statements as
180 are required at closing to meet the requirements of the lender and of federal and state law.

181 **12. Title and Conveyance.**

182 **A.** Seller warrants that at the time of closing, Seller will convey or cause to be conveyed to Buyer or Buyer's assign(s)
183 good and marketable title to said Property by general warranty deed, subject only to

184 (1) Zoning;

185 (2) Setback requirements and general utility, sewer, and drainage easements of record on the Binding
186 Agreement Date upon which the improvements do not encroach;

187 (3) Subdivision and/or condominium declarations, covenants, restrictions, and easements of record on the
188 Binding Agreement Date; and

189 (4) Leases and other encumbrances specified in this Agreement.

190 If title examination, mortgage loan inspection, boundary line survey, or other information discloses material defects,
191 Buyer may:

192 (1) accept the Property with the defects **OR**

193 (2) require Seller to attempt to remedy within fifteen (15) days after notification to Seller. If not remedied
194 within fifteen (15) days, Buyer may elect to terminate this Agreement with refund of Deposit Money to
195 Buyer.



196 Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in
197 Tennessee will insure at its regular rates, subject only to standard exceptions. The title search or abstract used for
198 the purpose of evidencing good and marketable title must be acceptable to the title insurance agent and the issuing
199 title insurance company. Seller agrees to execute such appropriate affidavits and instruments as may be required by
200 the issuing title insurance company.

201 **B. Deed.** Deed to be made in the name of _____.
202 The manner in which Buyer takes title determines ownership and survivorship rights. It is the Buyer's responsibility
203 to consult the closing agency or attorney prior to closing.

204 **13. Association Fees.** *[Select A, B, or C below. The section not marked is not a part of this Agreement.]*

205 **A. Mandatory.** Seller represents that there is a required association fee in the approximate amount of \$ _____
206 per year, prorated at closing, with an initiation fee of \$ _____.

207 **B. Not Mandatory.** Seller represents that there is not a required association fee.

208 **C. No Association.** Seller represents that there is no association.

209 **14. Visits to the Property.** Buyer agrees to limit inspections of the Property to a reasonable length of time during
210 business hours. Buyer further agrees not to issue instructions or otherwise interfere with workers or in any way hinder
211 their work, unless it has been requested that Buyer be there to assist in some phase of the construction (i.e., to check
212 colors, equipment, cabinets, etc.) Buyer agrees to deal only with the designated representative of the company assigned
213 by Seller to the Property and to limit communications with the representative to normal business hours.

214 **15. Inspections.** Buyer and/or his inspectors/representatives shall have the right to enter the Property at Buyer's expense
215 and at reasonable times (including immediately prior to closing) to thoroughly inspect, examine, test, and survey the
216 Property. Seller shall cause all utility services and any pool, spa, and similar items to be operational so that Buyer may
217 complete all inspections and tests under this Agreement. Buyer agrees to assume all liability for the acts of themselves,
218 their inspectors and/or representatives in exercising their rights under this paragraph and agree to hold Sellers and his
219 inspectors/representatives harmless.

220 **16. Walk Through.** Seller and Buyer shall jointly conduct a final walkthrough inspection and shall jointly create and sign a
221 punch list of items which are agreed to be incomplete and which will be completed by Seller within _____ days before
222 closing. If the reasonable cost of completion of the punch list items exceeds \$ _____, the job shall not be deemed
223 to be substantially complete and Buyer shall have the optional right, as a pre-closing condition, to require that a Notice of
224 Completion be filed at the time and in the manner provided by Tennessee law and the statutory procedure followed.

225 **17. Completion.** Seller will provide Buyer with copies of all building codes inspections and the final Use and Occupancy
226 Letter from the appropriate Codes Authority if applicable. The construction shall be deemed to be completed at such
227 time as such inspections and approvals have been supplied and Buyer has inspected and confirmed that the contract is
228 substantially completed. "Substantial completion" shall mean that all matters of substance except minor touch-up
229 matters have been completed. The construction shall be completed in accordance with all applicable governmental
230 regulations, ordinances and codes, and shall be in compliance with all applicable restrictions, covenants and conditions,
231 including, without limitation, any public or private architectural controls and restrictions.

232 **18. Soil Treatment Bond.** At closing, Seller shall provide Buyer a current Soil Treatment Certificate/Bond. If any
233 additional inspections and/or reports are requested by Buyer or Lender, any costs for such inspections and/or reports
234 shall be paid by Buyer.

235 **19. Buyer's Additional Due Diligence.** If any of the matters below are of concern to the Buyer, Buyer should address the
236 concern by specific contingency in the Special Stipulations paragraph of this Agreement.

237 **A. Survey and Flood Certification.** Survey Work and Flood Certifications are the best means of identifying boundary
238 lines and/or encroachments and easements or flood zone classifications. Buyer may obtain a Mortgage Loan
239 Inspection or Boundary Line Survey and Flood Zone Certification.

240 **B. Water Supply.** The system may or may not meet state and local requirements. It is the right and responsibility of
241 the Buyer to determine the compliance of the system with state and local requirements. [For additional information
242 on this subject, request the "Water Supply and Waste Disposal Notification" form.]

243 **C. Waste Disposal.** The system may or may not meet state and local requirements. It is the right and
244 responsibility of the Buyer to determine the compliance of the system with state and local requirements. In addition,
245 Buyer may, for a fee, obtain a septic system inspection letter from the Tennessee Department of Environment and
246 Conservation, Division of Ground Water Protection. [For additional information on this subject, request the "Water
247 Supply and Waste Disposal Notification" form.]



248 **D. Title Exceptions.** At closing, the general warranty deed will be subject to subdivision and/or condominium
249 declarations, covenants, restrictions and easements of record, which may impose obligations and may limit the use
250 of the Property of the Buyer.

251 **20. Seller's Additional Obligations.** If Seller has any knowledge of an exterior injection well and/or a percolation test or
252 soil absorption rate on the Property, Seller shall be obligated to counter this offer by disclosure of the existence of the
253 above including any tests and reports unless disclosure has already been received and acknowledged in writing by Buyer.
254 Seller shall also disclose in the same manner whether any single family residence located on the Property has been
255 moved from an existing foundation to another foundation. **Effective July 1, 2009**, Seller shall be also be obligated to
256 counter this offer to disclose if the Property is located in a Planned Unit Development (PUD) unless said disclosure has
257 already been received in writing and acknowledged by Buyer. If the Property is in a PUD, Seller agrees to make
258 available copies of the development's restrictive covenants, homeowner bylaws, and master deed to Buyer upon request.

259 **21. Labor and Materials Warranty & Seller's Property Condition Disclosure.**

260 Seller warrants the Property against defective workmanship or materials (normal wear and tear excepted) for a
261 period of one (1) year from closing date and against major structural defects.

262 **OR** This is a transfer involving the first sale of a dwelling and the builder has offered a written warranty.

263 **OR** No written warranty is given and the Tennessee Residential Property Disclosure Statement has been or will be
264 provided prior to the Binding Agreement Date.

265 **22. Extended Builder Warranty. Not a substitution for Inspections. Exclusions to coverage may apply.**

266 **WARRANTY:** _____ to pay \$ _____ for the purchase of a limited warranty to be funded at closing.

267 Warranty company: _____

268 Ordered by: _____ (Real Estate Co.)

269 Warranty waived.

270 **23. Insulation.** Insulation has been installed (or will be installed prior to closing) in accordance with the terms of this
271 paragraph.

272 **A.** Exterior walls are insulated with _____ insulation to a thickness of _____ inches which will,
273 according to the manufacturer, yield an R-value of _____.

274 **B.** Ceilings below the attic areas are insulated with _____ insulation to a thickness of _____ inches
275 which will, according to the manufacturer, yield an R-value of _____.

276 **C.** Vaulted ceilings are insulated with _____ insulation to a thickness of _____ inches which will,
277 according to the manufacturer, yield an R-value of _____.

278 **D.** Floor overhangs are insulated with _____ insulation to a thickness of _____ inches which will,
279 according to the manufacturer, yield an R-value of _____.

280 **24. Other Provisions.**

281 **A. Binding Effect, Entire Agreement, Modification, Assignment, and Binding Agreement Date.**

282 This Agreement shall be for the benefit of, and be binding upon, the parties hereto, their heirs, successors, legal
283 representatives and assigns. This Agreement constitutes the sole and entire agreement between the parties hereto
284 and no modification of this Agreement shall be binding unless signed by all parties or assigns to this Agreement. No
285 representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto. Any
286 assignee shall fulfill all the terms and conditions of this Agreement. The parties hereby authorize either licensee to
287 insert the time and date of receipt of the notice of acceptance of the final offer and further agree to be bound by such
288 as the Binding Agreement Date following the signatory section of this Agreement, or Counter Offer, if applicable.

289 **B. Survival Clause.** Any provision contained herein, which by its nature and effect is required to be performed after
290 closing shall survive the closing and delivery of the deed, and shall remain binding upon the parties to this
291 Agreement and shall be fully enforceable thereafter.

292 **C. Governing Law and Venue.** This Agreement is intended as a contract for the purchase and sale of real property
293 and shall be interpreted in accordance with the laws and in the courts of the state of Tennessee.

294 **D. Time of Essence.** Time is of the essence in this Agreement.



- 295 **E. Terminology.** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa;
296 (2) all pronouns shall mean and include the person, entity, firm or corporation to which they relate; (3) the masculine
297 shall mean the feminine and vice versa; and (4) the term day(s) used throughout this Agreement shall be deemed to
298 be calendar day(s) ending at 11:59 p.m. local time unless otherwise specified in this Agreement. Local time shall be
299 determined by the location of Property. **In the event a performance deadline**, other than the Closing Date
300 (paragraph 11), Date of Possession (paragraph 11), and Offer Expiration Date (paragraph 31), occurs on a Saturday,
301 Sunday or legal holiday, the performance deadline shall extend to the next following business day. In calculating
302 any time period under this Agreement, the commencement shall be the day following the initial date (e.g. Binding
303 Agreement Date).
- 304 **F. Responsibility to Cooperate.** Buyer and Seller agree to timely take such actions and produce, execute, and/or
305 deliver such information and documentation as is reasonably necessary to carry out the responsibilities and
306 obligations of this Agreement. Except as to matters which are occasioned by clerical errors or omissions or
307 erroneous information, the approval of the closing documents by the parties shall constitute their approval of any
308 differences between this Agreement and the closing. Buyer and Seller agree that if requested after closing, they will
309 correct any documents and pay any amounts due where such corrections or payments are appropriate by reason of
310 mistake, clerical errors or omissions, or the result of erroneous information.
- 311 **G. Notices.** Except as otherwise provided herein, all notices and demands required or permitted hereunder shall be in
312 writing and delivered either (1) in person, (2) by a prepaid overnight delivery service, (3) by facsimile transmission
313 (FAX), (4) by the United States Postal Service, postage prepaid, registered or certified, return receipt requested or
314 (5) Email. **NOTICE** shall be deemed to have been given as of the date and time it is actually received. Receipt of
315 notice by the real estate licensee or their Broker assisting a party as a client or customer shall be deemed to be notice
316 to that party for all purposes under this Agreement as may be amended, unless otherwise provided in writing.
- 317 **H. Risk of Loss.** The risk of hazard or casualty loss or damage to Property shall be borne by the Seller until transfer of
318 title. If casualty loss prior to closing exceeds 10% of the Purchase Price, Seller or Buyer may elect to terminate this
319 Agreement with a refund of Deposit Money to Buyer.
- 320 **I. Equal Housing.** This Property is being sold without regard to race, color, sex, religion, handicap, familial status, or
321 national origin.
- 322 **J. Severability.** If any portion or provision of this Agreement is held or adjudicated to be invalid or unenforceable for
323 any reason, each such portion or provision shall be severed from the remaining portions or provisions of this
324 Agreement, and the remaining portions or provisions shall be unaffected and remain in full force and effect.
- 325 **K. Other.** In further consideration of Buyer's right to legally, properly and in good faith invoke a right to terminate
326 this Agreement pursuant to any specific Buyer contingency as stated herein, Buyer agrees, upon Seller's request, to
327 provide Seller or Seller's representative with copies of any supporting documentation which supports Buyer's right
328 to exercise said contingency, the sufficiency and adequacy of said consideration being acknowledged. Any such
329 supporting documents shall be provided for the Seller's benefit only and Seller shall not disseminate the same to
330 third parties. However, Buyer shall not be required to provide any documents to Seller in violation of any
331 confidentiality agreement or copyright protection laws, if applicable.
- 332 **25. Disclaimer.** It is understood and agreed that the real estate firms and real estate licensee(s) representing or assisting the
333 Seller or the Buyer are not parties to this Agreement and do not have or assume liability for the performance or
334 nonperformance of Seller or Buyer. Buyer and Seller agree that Brokers shall not be responsible for any of the
335 following, including but not limited to, those matters which could have been revealed through a survey, flood
336 certification, title search or inspection of the Property; for the condition of the Property, any portion thereof, or any item
337 therein; for the necessity or cost of any repairs to the Property; for hazardous or toxic materials; for the tax or legal
338 consequences of this transaction; of the availability, capability, and/or cost of utilities, sewer, septic, or community
339 amenities; for the applicable boundaries of school districts or other school information; for the appraised or future value
340 of the Property; square footage of Property; any condition(s) existing off the Property which may affect the Property; for
341 the terms, conditions and availability of financing; and for the uses and zoning of the Property whether permitted or
342 proposed. Buyer and Seller acknowledge that Brokers are not experts with respect to the above matters and that, if any
343 of these matters or any other matters are of concern to them, they should seek independent expert advice relative thereto.
- 344 **26. Default.** Should Buyer default hereunder, the Deposit Money shall be forfeited as damages to the Seller and shall be
345 applied as a credit against Seller's damages. Seller may elect to sue, in contract or tort, for additional damages or
346 specific performance of the Agreement, or both. Should the Seller default, Buyer's Deposit Money shall be refunded to
347 Buyer. In addition, Buyer may elect to sue, in contract or tort, for damages or specific performance of this Agreement,
348 or both. In the event that any party hereto shall file suit for breach or enforcement of this Agreement (including suits



349 filed after closing which are based on or related to the Agreement), the prevailing party shall be entitled to recover all
350 costs of such enforcement, including reasonable attorney's fees.

351 **27. Brokerage.** As specified by separate agreement, Seller agrees to pay Listing Broker at closing the agreed upon
352 compensation. The Listing Broker will direct the closing agency to pay the Selling Broker, from the compensation
353 received, an amount in accordance with the terms and provisions specified by separate agreement. The parties agree and
354 acknowledge that the brokers involved in this transaction may receive compensation from more than one party. All
355 parties to this Agreement agree and acknowledge that any real estate brokers involved in this transaction shall be deemed
356 a third party beneficiary and shall have the right to maintain an action on this Agreement for any and all compensations
357 due and any reasonable attorney's fees and court costs

358 **28. Exhibits and Addenda.** All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part
359 of this Agreement: _____
360 _____
361 _____
362 _____
363 _____
364 _____
365 _____
366 _____
367 _____

368 **29. Special Stipulations.** The following Special Stipulations, if conflicting with any preceding paragraph, shall control:
369 _____
370 _____
371 _____
372 _____
373 _____
374 _____
375 _____
376 _____
377 _____
378 _____
379 _____
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406 **30. Method of Execution.** The parties agree that signatures and initials transmitted by facsimile, other photocopy
407 transmittal, or by transmittal of digital signature as defined by the applicable State or Federal law will be acceptable and
408 may be treated as originals and that the final Purchase and Sale Agreement containing all signatures and initials may be
409 executed partially by original signature and partially on facsimile, other photocopy documents, or by digital signature as
410 defined by the applicable State or Federal law.

411 **31. Time Limit of Offer.** This Offer may be withdrawn at any time before acceptance with Notice. Offer terminates if not
412 countered or accepted by _____ o'clock a.m./ p.m.; on the ____ day of _____.

413 **LEGAL DOCUMENTS: This is an important legal document creating valuable rights and obligations. If you have**
414 **any questions about it, you should review it with your attorney. Neither the Broker nor any Agent or Facilitator is**
415 **authorized or qualified to give you any advice about the advisability or legal effect of its provisions.**

416 **NOTE: Any provisions of this Agreement which are preceded by a box "☐" must be marked to be a part of this**
417 **Agreement. By affixing your signature below, you also acknowledge that you have reviewed each page and have**
418 **received a copy of this Agreement.**

419 Buyer hereby makes this offer.

| | |
|---|---|
| 420 _____ | _____ |
| 421 BUYER | BUYER |
| 422 _____ at _____ o'clock <input type="checkbox"/> am/ <input type="checkbox"/> pm | _____ at _____ o'clock <input type="checkbox"/> am/ <input type="checkbox"/> pm |
| 423 Offer Date | Offer Date |

424 Seller hereby:

425 **ACCEPTS** – accepts this offer.

426 **COUNTERS** – accepts this offer subject to the attached Counter Offer(s).

427 **REJECTS** this offer and makes no counter offer.

| | |
|---|---|
| 428 _____ | _____ |
| 429 SELLER | SELLER |
| 430 _____ at _____ o'clock <input type="checkbox"/> am/ <input type="checkbox"/> pm | _____ at _____ o'clock <input type="checkbox"/> am/ <input type="checkbox"/> pm |
| 431 Date | Date |

432 **Binding Agreement Date.** This instrument shall become a "Binding Agreement" on the date ("Binding Agreement Date")
433 the last offeror, or licensee of offeror, receives notice of offeree's acceptance. Notice of acceptance of the final offer was
434 provided on ____ day of _____, _____ at _____ time by _____ name.

For Information Purposes Only

Listing Company

Selling Company

Independent Licensee

Independent License

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