

# Lawrence Board of REALTORS®

## Forms Committee

Tuesday, January 20, 2026 – 10:30am 12:00pm

### AGENDA:

#### 1. Previous Meeting Minutes.

#### 2. LBOR Sales Contract

- a. Review language/recommendations for FIRPTA from Legal Counsel:
  - See Danielle Davey's message for the Committee pushing back against changes to make the paragraph intentionally vague, and more of a disclosure.
- b. Housekeeping
  - Closing vs closing – Danielle Davey corrections throughout.
  - Transitions from page to page.
- c. Final call for changes to the Sales Contract?

#### 3. LHBA/LBOR New Construction Forms and Sales Contract

- a. Inspection Requirements.
- b. Review highlighted suggestions for the New Construction Contract.
  - Note: FinCEN and FIRPTA Language
  - Other highlighted suggestions
- c. LBOR/LHBA New Construction Contract to be sent to LHBA following full review of LBOR Sales Contract to ensure all potential changes are incorporated into the LBOR/LHBA New Construction Contract.

#### 4. New Items to Consider/Discuss?

#### 5. Next Meeting?

#### 6. Adjourn

#### 2026 Forms Committee

##### Bailey Stuart, Chairperson

Cheri Drake  
Chris Earl  
Drew Deck  
Lindsay Landis  
Nicholas Lerner  
Ryan Desch  
Taylor LaRue  
Vanessa Schmidt  
Williams Perkins  
Erin Maigaard, 2026 President  
Rob Hulse, Staff Liaison

McGrew  
McGrew  
Stephens  
RN Preferred  
McGrew  
McGrew  
R+K  
McGrew  
R+K  
KW Integrity  
McGrew  
LBOR/LMLS

# Forms Committee Meeting Minutes

January 6, 2026

2:30pm to 4:00pm

## Meeting Minutes Review and Approval

The Committee reviewed the minutes from the previous meeting. **It was moved and seconded to approve the minutes. Passed.**

## Cancellation Agreement Review Meeting

The Committee reviewed a final draft of the Cancellation Agreement. It was noted that the word cancellation should be spelled consistently. Because the LBOR Sales Contract uses two (2) L's, the Cancellation Agreement will have two (2) L's in the word "cancelled."

## FIRPTA - Foreign Seller Contract Language Updates

The committee next discussed the new Paragraph 19 – FIRPTA. The Committee feels this paragraph should be changed to be intentionally vague and be a disclosure statement about FIRPTA and that "monies" that may need to be withheld as a result a foreign Seller, as defined by FIRPTA. **It was moved and seconded to send this back to Danielle Davey with instructions to make changes that do not indicate that "Buyer" will withhold funds, and rather that monies in general may be withheld to satisfy Seller's obligations to the IRS if they are a foreign Seller, as defined by FIRPTA. The intent is to make this more of a disclosure statement about FIRPTA, and to be intentionally vague. Motion Passed.**

## LBOR Sales Contract Housekeeping

As the Committee finalized the changes to the LBOR Sales Contract, the following housekeeping items were addressed:

- Capitalization of the word Closing/Closing Agent/Escrow Agent – Danielle Davey will be asked to review for correctness of capitalization where appropriate in the LBOR Sales Contract.
- Use of spelled numbers, i.e. ten (10). Changes were made to paragraph #7, as well as in Paragraph 24 – Escrow and the use of thirty (30).
- Add a missing conjunction of "or" in Paragraph 7.e.
- And the Committee discussed transitions from page to page with breaks in certain Paragraphs. Staff will rework to keep Paragraphs on one page, where possible.
- Paragraph #13 and #18 – **It was moved and seconded to use "...up to but not including..." for consistency. Motion Passed.**

## Meeting Adjournment

They scheduled their next meeting for January 20th at 10:30 am, and the meeting was adjourned at 4:00pm.

**Subject:** FIRPTA

From Danielle Davey regarding FIRPTA and Capitalization in the Sales Contract.  
Rob

Rob –

*On FIRPTA, I'm going to push back a little bit on the committee's request. If Seller is a foreign person under FIRPTA, Buyer is obligated to withhold and remit the required percentage. Saying "monies may be withheld" suggests to me that it is optional. If a Buyer fails to withhold and remit (or instruct the Title Company to do so), the Buyer is subject to penalties, including personal liability for the withholding plus interest and penalties. I think it is clearer for both parties if the language indicates that compliance with FIRPTA is mandatory and not at the option of the Buyer. I also think using "authorized to withhold" provides some additional protection for Buyers against a claim by a Seller that proceeds were wrongfully withheld or that failure to pay the full proceeds somehow constitutes a breach.*

*On whether to capitalize "closing" – I think in your particular contract, "closing" currently only needs to be capitalized when used in "Closing Date." Defined terms only need to be capitalized when the term is given a specific, unique meaning within the contract. So, for example, if my contract defines the "Closing Date" as February 1, 2026, then every time I say "on or before Closing Date" within the contract, what I want you to read there is "on or before February 1, 2026" but that meaning is unique to my contract. LBOR's contract defines "closing" and "closing fee," but it's mostly providing the common or dictionary definition for clarification, and not prescribing some unique or special meaning that may be negotiated or changed in each use of the contract. Since we're not asking readers to substitute some unique meaning for that term when used throughout the contract, it doesn't need to be capitalized. The same is true of "Escrow Agent" – defined in paragraph 2a – as opposed to title company and closing agent, which are used generally without specifying a particular company or agent. If there were a place to designate a specific company or agent, then we would consider those defined terms and capitalize them. I've tried to make those corrections throughout.*

*Hope that helps!*

**Rob Hulse, RCE, AHWD**

**Executive Vice-President**

Lawrence Board of REALTORS®

Lawrence Multiple Listing Service

Direct Line: 785.856.0072

Main Line: 785.842.1843

[Rob@LawrenceRealtor.com](mailto:Rob@LawrenceRealtor.com)

[LawrenceRealtor.com](http://LawrenceRealtor.com)

☐ If checked, this Sales Contract Template has been modified by \_\_\_\_\_ (name), \_\_\_\_\_ (insert date mm/dd/yyyy).

## SALES CONTRACT

File Number \_\_\_\_\_

**THIS CONTRACT TEMPLATE APPROVED BY LEGAL COUNSEL FOR THE LAWRENCE BOARD OF REALTORS®  
THIS IS A LEGALLY BINDING CONTRACT, NOT AN OPTION**

SELLER(S) \_\_\_\_\_

If known, please include Marital Status for each Seller – ASP (a single person), AMP (a married person), AMC (a married couple)

BUYER(S) \_\_\_\_\_

If known, please include Marital Status for each Buyer – ASP (a single person), AMP (a married person), AMC (a married couple)

Taking title as:

☐ Joint Tenancy ☐ Tenants in Common ☐

The Property described is sold and purchased on the following terms:

1. a. Legal Description / Include County: \_\_\_\_\_

b. Street Address: \_\_\_\_\_ City, State Zip \_\_\_\_\_

c. The following personal property items are of no value and are being left for the convenience of all parties. \_\_\_\_\_

d. Personal Property excluded: \_\_\_\_\_

### 2. PRICE:

\$ \_\_\_\_\_

a. Earnest money held in trust account by \_\_\_\_\_ hereinafter referred to as Escrow Agent.

☐ Earnest Money Attached

☐ To be delivered to \_\_\_\_\_

(Escrow Agent if left blank) no later than \_\_\_\_\_ business days (5 if left blank) after contract acceptance. ▼

In the form of (Select 1 option only):

☐ Personal Check ☐ Cashier's Check ☐ ACH/Debit Card ☐ Wire Transfer

☐ Other \_\_\_\_\_

Deleted: (five (5) if left blank)

b. New mortgage proceeds: See Paragraph #3: Financing (Amount does not include MIP, Funding Fee, or Guarantee Fee)

\$ \_\_\_\_\_

c. Other: \_\_\_\_\_ \$ \_\_\_\_\_

d. Balance of purchase price subject to adjustment and prorating, paid in certified funds at closing (Price less a, b & c of this paragraph)

\$ \_\_\_\_\_

e. Additional SELLER paid costs (zero if left blank). In addition to any other costs SELLER agreed to pay herein, SELLER agrees to pay other allowable closing costs permitted by Lender(s) and/or prepaid items for BUYER, not to exceed

\$ \_\_\_\_\_



3. **FINANCING:**☐ **THIS IS A CASH SALE**☐ **THIS IS A FINANCED SALE:** This Contract is contingent upon BUYER obtaining the financing described in this paragraph, provided by: Lending Institution \_\_\_\_\_, Loan Officer \_\_\_\_\_.a. **Type of Financing:** Loan(s) will be ☐ owner-occupied loan(s), or ☐ investment loan(s), or ☐ interim or bridge financingb. **Loan Type:**☐ Conventional☐ FHA

It is expressly agreed that, notwithstanding any other provision of this Contract, the BUYER shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the BUYER has been given in accordance with HUD/FHA or VA requirements, a written statement issued by the Federal Housing Commissioner, Veterans Administration, or a Direct Endorsement Lender setting forth the appraised value of the property (excluding closing costs) of not less than the Sale Price of the Contract (Contract Price), which statement the Mortgagee agrees to deliver to the BUYER promptly after such appraised value statement is made available to the Mortgagee. However, the BUYER shall have the privilege and option of proceeding with the consummation of the Contract without regard to the amount of the appraised valuation made by the Federal Housing Commissioner. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development (HUD) will insure. HUD does not warrant the value or the condition of the property. The BUYER should satisfy himself/herself that the price and the condition of the property are acceptable.

☐ VA

It is expressly agreed that, notwithstanding any other provision of this Contract, the BUYER shall not incur any penalty by forfeiture of earnest money or otherwise or be obligated to complete the purchase of the property described herein, if the Contract Price exceeds the reasonable value of the property established by the Veterans Administration. However, the BUYER shall have the privilege and option of proceeding with the consummation of this Contract without regard to the amount of reasonable value established by the Veterans Administration.

☐ Rural Development☐ Other \_\_\_\_\_c. **Loan Terms:**

Initial Interest rate not to exceed \_\_\_\_\_ %, points not to exceed \_\_\_\_\_ points,  
For a term of \_\_\_\_\_ years. Check if: ☐ Fixed, or ☐ Variable.

BUYER'S lender may afford BUYER the option to "lock in" the foregoing interest rate or to "float" the interest rate. If BUYER locks in a rate, BUYER agrees to accept the "locked" rate and terms, even if different than those stated above. If BUYER has received a firm commitment from a lender on terms at or better than the terms stated above, and BUYER elects to float the rate, then BUYER agrees to accept the rate and terms available from BUYER'S lender for which BUYER qualifies at closing. BUYER may obtain a loan on different Loan Terms than those described in 3c, provided that the Loan Terms of the loan do not result in additional costs to SELLER.

d. **Loan Approval:**

i: BUYER'S loan approval ☐ is not ☐ is contingent on BUYER receiving proceeds from sale/closing of property located at \_\_\_\_\_.

ii: If money is being borrowed, then this Contract is conditioned upon BUYER obtaining a written firm commitment, which must include (if required by Lender) a satisfactory appraisal, credit verification, income/assets verification, and PMI approval, for a new purchase money mortgage in the principal amount of no more than the above-stated new mortgage proceeds by, on, or before \_\_\_\_\_ (5 business days prior to closing if left blank).

BUYER shall act diligently and in good faith to obtain a mortgage loan as set out in this paragraph and shall make loan application within **five (5)** business days of the acceptance of this contract. BUYER may, at BUYER'S option, accept a firm loan commitment for less than the amount identified in 2b. BUYER agrees to accept any firm commitment which meets the terms set out in this paragraph and agrees to comply with all requirements of the commitment. BUYER shall furnish SELLER with a copy of the commitment promptly after BUYER receives it. If BUYER is unable to obtain a commitment for the Loan(s) within the loan approval period, then, unless the parties agree to extend such date or BUYER delivers to SELLER a written waiver of this condition, **BUYER or SELLER may CANCEL THIS CONTRACT** by delivering written notice to the other of their intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER, and this Contract shall be deemed null and void. If BUYER is unable to obtain the financing described herein, BUYER shall provide written evidence of rejection.

Deleted: ¶

Deleted: C



**4. CLOSING DATE/DELIVERY OF DEED/DISTRIBUTION OF PROCEEDS:**

- a. The Closing Date shall be \_\_\_\_\_, unless both parties agree in writing to advance or delay the closing. "Closing" refers to the settlement of the transaction where the purchase price is paid to Seller, prorations are made and the deed is delivered to Buyer. Seller shall deliver possession and provide keys to Buyer immediately following payment of the purchase price to Seller and recording of the deed. Buyer shall not occupy the Property or place personal property in or on the Premises prior to recording of the deed without the prior written consent of Seller. If the Property is rented, the tenancy will be disclosed pursuant to paragraph eight (8) of this Contract.
- b. Unless otherwise agreed by the parties, at least three (3) calendar days before the Closing Date, SELLER shall execute and deliver to the Title Company or other closing agent, a general warranty deed or special warranty deed, or fiduciary deed (if SELLER is a corporation financial institution or fiduciary), and all other documents and funds reasonably necessary to complete the closing. **On or before the Closing Date, SELLER and BUYER agree to deliver to the closing agent a CASHIER'S CHECK, WIRE, OR OTHER CERTIFIED FUNDS sufficient to satisfy their respective obligations under this Contract.**
- c. BUYER shall pay the closing fee. "Closing fee" is the fee charged by the closing agent with a title company, or closing company, to facilitate the closing of the real estate transaction.

Deleted: C

Deleted: C

Deleted: A

Deleted: C

Deleted: A

5. **TITLE INSURANCE:** SELLER shall furnish BUYER marketable title, from \_\_\_\_\_ (Escrow Agent if left blank), subject to liens, encumbrances, exceptions, or qualifications specified in this Contract and those which shall be discharged by SELLER at or before closing. SELLER shall furnish BUYER, before closing, a commitment for an owner's title insurance policy in the amount of the purchase price, insuring BUYER'S title subject only to liens, encumbrances, exceptions, or qualifications set forth in this Contract, and those which shall be discharged by SELLER at or before closing. BUYER shall have **five (5)** calendar days after receipt, to examine the title insurance commitment and to notify SELLER in writing of any requirements to make the title marketable. SELLER shall have until closing to cause the title to be made marketable. If defects precluding marketability are not removed by closing, BUYER may either accept title or **CANCEL THIS CONTRACT** by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void. SELLER shall diligently attempt, before closing, to correct any defects to marketability of which BUYER has notified SELLER in writing and shall file and pursue any legal proceedings reasonably necessary to correct such defects. In case of dispute between the parties as to marketability of the title, the Title Standards adopted from time to time by the Bar Association of the State of Kansas, and the Kansas Marketable Record Title Act, as amended, shall control. Buyer agrees to use the title company selected by Seller for all applicable title services, unless otherwise stated in Special Provisions.

Deleted: C

Deleted: C

Deleted: C

Deleted: C

Deleted: C

Deleted: C

It is BUYER'S responsibility to perform due diligence and verify any information related to encumbrances which do not affect the marketability of title, including but not limited to HOA documents or easements of record. If the Property is governed by a homeowner's association, it is recommended that the BUYER request from the HOA any documents which BUYER considers material. Any information provided by the Broker(s) and its affiliated licensee(s) assisting in this transaction is for information and marketing purposes only.

6. **SURVEY:** BUYER may, at BUYER'S expense, obtain a "staked" survey of the Property before the Closing Date to assure that there are no defects, encroachments, overlaps, boundary line or acreage disputes, or other such matters, that would be disclosed by a survey. BUYER acknowledges that a Mortgage Inspection Report or "Loan Survey" normally required by a lending institution is not a "staked" survey. A title insurance company typically requires a "staked" survey in order to provide survey coverage to the BUYER. Prior to the Closing Date, BUYER shall notify SELLER of any encroachments of any improvements upon, from, or onto the Property or any building setback line, property line, or easement, which encroachment shall be deemed to be a title defect. SELLER shall remedy such defects as are susceptible of being remedied prior to the Closing Date. If SELLER does not so remedy the defects in title, BUYER shall have the option of (a) completing this purchase and accepting the title SELLER is able to convey without adjustment in the purchase price, or (b) **CANCEL THIS CONTRACT** by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void.

**7. INSPECTIONS:**

BUYER or BUYER'S representative, at BUYER'S expense, shall have the right, on or before \_\_\_\_\_ calendar days (**Ten (10)** if left blank) (the Inspection Period) after Contract acceptance date, to conduct and complete inspections to evaluate the present condition of the Property and its major systems. All inspections BUYER deems necessary must be completed by the end of the allowed Inspection Period (inspection(s), inspection(s) results, and all written inspection reports). BUYER may have the Property inspected by an **independent, qualified inspector(s)**, including, without limitation, the following: (1) mechanical equipment, plumbing and electrical systems, heating and central air conditioning system; (2) structural aspects of the Property, including without limitation, the following: foundation, slab, drainage, roof, fireplace, chimney, siding, windows, doors, ceiling, floors, walls, insulation, the interior, the exterior, fence, deck, patio, sidewalk or driveway; (3) environmental or health hazards affecting the Property, including without limitation, the following: radon gas, asbestos, mold, lead based paint, or any other environmental or health hazard; (4) Active pest infestation, existence of active infestation by, and/or damage from, termite/wood-destroying pests (or evidence of past untreated infestation).



☐ See Rural Property Attachment to the Sales Contract.

- a. **Access to Property and Re-Inspections:** SELLER shall afford BUYER reasonable access to the Property to conduct the inspection(s), re-inspection(s) inspection of any repair(s) completed by SELLER, and/or final walk-through, prior to closing. Such inspections shall be scheduled at any reasonable time convenient to SELLER. BUYER shall be responsible for correcting and/or paying for any damage to the Property resulting from the inspection(s).
- b. **Inspection Reports:** BUYER/BUYER's Representative shall provide SELLER/SELLER's Representative with a copy of any all written inspection report(s) ~~with any inspection deficiency requirements BUYER may make of SELLER as allowed in Paragraph 7d of this Contract or said written reports shall be delivered to SELLER/SELLER's Representative prior to the termination of the Inspection Period in absence of an inspection deficiency request or said written reports must accompany BUYER's cancellation notice, no later than BUYER'S notice of cancellation, AS-IS acceptance, or submission of deficiencies. Upon receipt of inspection reports, SELLER, at SELLER'S option, may share inspection reports at their discretion.~~
- c. **Exclusions from Inspection:** ~~Any items that are strictly of a cosmetic nature that do not pertain to the mechanical or structural integrity or safety of the Property.~~ Inspections are not intended to identify either cosmetic imperfections or other features of the Property. The following items are expressly excluded from the foregoing inspection provisions, shall not be considered unacceptable conditions, and may not be used by the BUYER as a basis for canceling this Contract or requesting repairs: \_\_\_\_\_
- d. **Unacceptable Conditions:** Any condition identified in a written inspection report(s) prepared by an independent qualified inspector(s) of BUYER's choice, which condition(s) is unacceptable to BUYER (Deficiencies) and not otherwise excluded by this Contract.

Deleted: C

If BUYER'S inspection(s) reveal deficiencies, BUYER may perform either of the following with a marked checkbox, or checkboxes, within the Inspection Period:

☐ **CANCEL THIS CONTRACT** by delivering written notice to SELLER/SELLER'S Representative of BUYER's intent to cancel in the form of a written contract cancellation agreement ~~within prior to the expiration of the Inspection Period, and, upon execution of the cancellation agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void, OR ACCEPT THE PROPERTY IN ITS PRESENT "AS-IS" Condition~~ by delivering written notice to SELLER/SELLER'S Representative of BUYER's intent to accept the property in its present **"AS-IS"** condition; At BUYER'S option, a cancellation notice may be submitted together with an amendment alternative written proposal requesting modifications to the terms of this Contract for SELLER'S consideration. Execution by SELLER of either document shall constitute rejection of the other, and any signed cancellation agreement shall render this Contract null and void and direct return of Earnest Money to BUYER as provided herein.

☐ **REQUIRE REPAIRS** of SELLER by delivering written notice to SELLER/SELLER'S Representative of deficiencies which exist in/on the Property which require correction by SELLER. Said deficiencies must be delivered to SELLER/SELLER'S Representative in writing prior to the expiration of the Inspection Period by providing an itemized list describing the deficiencies in reasonable detail. BUYER and SELLER will have \_\_\_\_\_ **Calendar Days** (5 if left blank) after SELLER'S/SELLER'S Representative receipt of BUYER'S notice of deficiencies (the "Inspection Negotiation Period"), to reach a written agreement detailing the resolution of the deficiencies **OR ACCEPT THE PROPERTY IN ITS PRESENT "AS-IS" Condition** by delivering written notice to SELLER/SELLER'S Representative of BUYER's intent to accept the property in its present **"AS-IS"** condition. BUYER may, at BUYER'S option, submit an alternative written proposal requesting modifications to the terms of this Contract together with BUYER'S written notice of deficiencies for SELLER'S consideration prior to the expiration of the Inspection Period.

Deleted: calendar days

Cost to correct deficiencies: BUYER shall pay ~~the first~~ \$ \_\_\_\_\_ (\$0 if left blank) ~~of towards~~ the total costs of ~~correction agreed upon repairs~~, and any costs required above such amount shall be paid by SELLER.

- i. Any of the following executed and delivered to the other party or other party's representative prior to the expiration of the Inspection Negotiation Period will constitute such an agreement:
- SELLER'S signature agreeing to do everything requested by BUYER on the original notice of deficiencies; or
  - ~~A revised statement of deficiencies signed by BUYER and SELLER detailing the deficiencies to be corrected by SELLER; or~~ mutually agreed upon statement of resolution, signed by BUYER and SELLER.
  - BUYER'S signature on a statement of deficiencies accepting the Property in its present condition.



- ii. If no agreement resolving the deficiencies is reached during the Inspection Negotiation Period as provided above, then after the expiration of the Inspection Negotiation Period any of the following is permitted under the Contract:
- Negotiations between SELLER and BUYER may still proceed. However, any agreement resolving the deficiencies must be in writing and signed by both parties.
  - Within **one** (1) calendar day of the expiration of the Inspection Negotiation Period Buyer may accept the property in its present "As-Is" condition by delivering BUYER'S written executed notice.
  - BUYER or SELLER may, ~~unilaterally cancel this Contract~~ **CANCEL THIS CONTRACT**, after the expiration of the **one** (1) calendar day period above, ~~by written notice to the other in the form of a contract cancellation agreement (which the receiving party hereby agrees to immediately sign and return to the other) directing Escrow Agent to release all earnest monies held to BUYER. Upon execution by all parties, this Contract shall be declared null and void and all obligations to the other shall cease.~~ **by delivering written notice to the other of their intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER, and this Contract shall be deemed null and void.**
- e. ~~BUYER'S notice of cancellation, AS-IS acceptance, amendment modifying the terms, or~~ submission of deficiencies terminates the Inspection Period.
- f. **Quality of Repairs:** SELLER agrees that any corrections which SELLER performs shall be completed in a workmanlike manner with good quality materials.
- g. **Failure to Inspect/Failure to Deliver Written Notice to SELLER:** If BUYER fails to conduct an inspection(s) and/or deliver a written notice to SELLER/SELLER's Representative per paragraph 7d, BUYER shall have waived any right to cancel and/or right to repairs due to deficiencies which might reasonably have been discovered by an inspection, and shall be deemed to have accepted the Property in its present "As Is" condition at ~~closing~~.
- h. ☐ **Waiver of Inspections:** Buyer hereby waives the right to conduct inspections. BUYER shall have waived any right to cancel and/or right to repairs due to unacceptable conditions which might reasonably have been discovered by an inspection and shall be deemed to have accepted the Property in its present "As Is" condition at ~~closing~~.

By initialing below, BUYER hereby waives the right to conduct inspections.

\_\_\_\_\_  
BUYER'S INITIALS

\_\_\_\_\_  
BUYER'S INITIALS

8. **OCCUPANTS OTHER THAN SELLER:**

- ☐ Check if the property is currently leased.

If the property, or any portion of the property is currently leased, and the lease extends beyond the closing date, on or before \_\_\_\_\_ calendar days (5 if left blank) after Contract acceptance date, SELLER shall furnish BUYER with copies of all leases, and records of all received rents and deposits paid. Buyer shall have three (3) calendar days from receipt of all leases and records of all received rents and deposits to CANCEL THIS CONTRACT by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void. SELLER shall deliver and assign to BUYER all original leases on Closing Date. Advance rents, deposits and prorated rents will be credited to BUYER at ~~closing~~. BUYER shall assume all obligations under the leases and indemnify and hold the SELLER harmless with respect to the BUYER'S performance under such leases.

If the property is currently leased and the lease terminates prior to closing, SELLER will provide written evidence of lease termination in lieu of copies of all leases, and records of all received rents and deposits paid within the time period in the paragraph above. Unless otherwise agreed, no new leases or modifications/extensions to existing leases will be negotiated and/or executed without the written permission of BUYER.

9. **SELLER'S DISCLOSURE STATEMENT:**

- a. SELLER shall provide BUYER with the following disclosure statements, as applicable, prior to the signing of this Contract: Seller's Property Condition Disclosure Statement, Lead-Based Paint Disclosure, and Kansas Energy Efficiency Disclosure. SELLER verifies that the Seller's Disclosure Statement, executed concurrently with the Exclusive Right of Sale, is current and valid to date.

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Deleted: C

Deleted: C

Deleted: C





SELLER'S INITIALS

SELLER'S INITIALS

- b. BUYER acknowledges receipt of the above applicable disclosure statements prior to, or concurrently with, signing of this contract.

BUYER'S INITIALS

BUYER'S INITIALS

10. HOME WARRANTIES AND HAZARD INSURANCE:

- a. **BUYER'S Warranty Plan** (Check if applicable): ☐ SELLER or ☐ BUYER, at a cost not to exceed \$ \_\_\_\_\_ (amount not to include additional costs for SELLER'S coverage), agrees to purchase a homebuyer's warranty plan from \_\_\_\_\_ to be paid at closing. This plan is a limited-service contract covering repair or replacement of the working components of the Property for a minimum of one (1) year from the Closing Date subject to a per claim deductible of \$ \_\_\_\_\_.  
The (Check one) ☐ Listing Agent ☐ Selling Agent shall be responsible for making arrangements for the warranty plan and submitting required documentation to the settlement agent prior to closing.

- b. By initialing below, both BUYER and SELLER are declining a warranty at this time.

\_\_\_\_\_  
SELLER'S INITIALS

\_\_\_\_\_  
BUYER'S INITIALS

- c. **Hazard Insurance:** BUYER acknowledges that hazard insurance is available through various sources.

11. **AGENCY DISCLOSURE:** (applicable sections must be checked): SELLER and BUYER acknowledge receiving the "Real Estate Brokerage Relationships" brochure prior to their execution of this Contract. SELLER and BUYER acknowledge that the real estate licensees involved in this transaction may be functioning as SELLER'S agents, BUYER'S agents, Designated Agents, or as Transaction Brokers. Pursuant to the following disclosure:

(Listing Company) \_\_\_\_\_ (Name of Licensee) \_\_\_\_\_  
is functioning as: ☐ SELLER'S Agent ☐ Designated SELLER'S Agent ☐ Transaction Broker

(Selling Company) \_\_\_\_\_ (Name of Licensee) \_\_\_\_\_  
is functioning as: ☐ SELLER'S Agent ☐ Designated SELLER'S Agent ☐ Transaction Broker  
☐ BUYER'S Agent ☐ Designated BUYER'S Agent

**Types of Brokerage Relationships:** A real estate licensee may work with a buyer or seller as a seller's agent, buyer's agent or transaction broker. The disclosure of the brokerage relationship between all licensees involved and the seller and buyer must be included in any contract for sale and in any lot reservation agreement.

**Seller's Agent:** The seller's agent represents the seller only, so the buyer may be either unrepresented or represented by another agent. In order to function as a seller's agent, the broker must enter into a written agreement to represent the seller. Under a seller agency agreement, all licensees at the brokerage are seller's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a seller's agent and the supervising broker of the designated agent functions as a transaction broker.

**Buyer's Agent:** The buyer's agent represents the buyer only, so the seller may be either unrepresented or represented by another agent. In order to function as a buyer's agent, the broker must enter into a written agreement to represent the buyer. Under a buyer agency agreement, all licensees at the brokerage are buyer's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a buyer's agent and the supervising broker of the designated agent functions as a transaction broker.

**A Transaction Broker** is not an agent for either party and does not advocate the interests of either party. A transaction brokerage agreement can be written or verbal.

Complete only if Licensee representing SELLER or BUYER has a financial interest as a SELLER OR BUYER, OR is an immediate family member of SELLER or BUYER:

- ☐ \_\_\_\_\_, Licensee assisting SELLER,  
☐ DOES HAVE a financial interest in this transaction AS A SELLER.  
☐ IS an immediate family member of a party that has a financial interest in this transaction as a SELLER.  
Licensee ☐ DOES ☐ DOES NOT have a financial interest due to this relationship.



- ☐ \_\_\_\_\_, Licensee assisting BUYER,
- ☐ DOES HAVE a financial interest in this transaction AS A BUYER.
- ☐ IS an immediate family member of a party that has a financial interest in this transaction as a BUYER.
- Licensee ☐ DOES ☐ DOES NOT have a financial interest due to this relationship.

For purposes of the foregoing disclosures, "immediate family member" means spouse, parent, child or sibling. "Interest" is defined in K.S.A. 58-3035(i).

12. **BUYER BROKERAGE COMPENSATION.** SELLER will pay and/or Listing Company is authorized to share from the compensation previously negotiated in the Exclusive Right to Sell Agreement compensation to Buyer Brokerage (Selling Company) of \_\_\_\_\_ % of the sales price as defined in Paragraph 2 of this Contract or \$ \_\_\_\_\_. SELLER authorizes payment of Buyer Broker Compensation from the compensation previously negotiated and authorized to be shared in the Exclusive Right to Sell Agreement. If the Buyer Brokerage Compensation set forth herein exceeds the amount authorized to be shared in the Exclusive Right to Sell Agreement, SELLER shall pay the balance at closing. Buyer's Brokerage fees, to include but not limited to brokerage commissions and other fees, will be paid out of escrow at closing, unless otherwise described above or in the terms of the respective agency agreements.

Deleted: C

Deleted: C

SELLER and BUYER understand and agree that Buyer's Brokerage may be compensated by more than one party in the transaction. (Check all applicable boxes).

Buyer's Brokerage compensated by ☐ SELLER and/or ☐ BUYER

Broker commissions are not set by law, regulation or policy of any real estate trade association. The compensation paid to a real estate broker is always fully negotiable. Compensation to the BUYER's Brokerage paid by SELLER or Listing Company, if any, shall not exceed the compensation negotiated between BUYER and the Buyer's Brokerage (Selling Company).

13. **RESTRICTIONS, EASEMENTS, LIMITATIONS, and TAXES:** BUYER shall take title subject to the following: zoning restrictions, prohibitions or other requirements imposed by governmental authority; restrictions, covenants and matters appearing on the plat of record; public utility easements of record, provided they are located contiguous to the Property lines; taxes and special assessments prorated up to but not including Closing Date, as described in Paragraph 18 of this Contract.
14. **TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Typewritten or handwritten provisions inserted or attached shall supersede all conflicting printed provisions.
15. **ASSIGNABILITY:** This Contract and any right or interest in the Property are assignable only with the written consent of SELLER and BUYER.
16. **CONTRACT ACCEPTANCE DATE:** Date of this Contract is the date the last party signed or initialed mutually acceptable changes.
17. **LIENS:** SELLER certifies that at closing there will be no lien claimants, nor potential lien claimants, nor improvements to the Property being sold for 120 calendar days prior to Closing Date. If there have been improvements on or to the above-described Property within 120 calendar days prior to the Closing Date, SELLER shall deliver releases or waivers from the general contractors, subcontractors, suppliers, and material men furnishing the labor or materials for such improvements, together with such affidavits as SELLER may reasonably require naming such persons and reciting that all bills that might serve as a basis for liens of any type have or will be paid prior to or at closing.
18. **TAXES & ASSESSMENTS:**
- Real Estate taxes and any installments of special assessments for the closing year shall be prorated up to and including the Closing Date based upon the current available mill levy and assessed valuation. SELLER shall pay, or credit to BUYER as BUYER'S lender may require, the real estate taxes and any installments of special assessments for all prior years.
  - Taxes shall be prorated at closing with BUYER being responsible for payment of taxes on any parcels closed and recorded prior to December 20 of the current year.
  - In the event that improvements have been made or special benefits have been assessed upon the herein-described Property which were not in existence on January 1 of the previous year, then such proration shall be based on an equitable estimate agreed upon between the parties prior to closing.
  - Installments of special assessments becoming payable following closing shall be assumed by the BUYER.
  - BUYER and SELLER acknowledge that reappraisal of all real estate is an ongoing process in the State of Kansas, which may change the real estate taxes on this Property this year and in the future.
19. **FOREIGN INVESTMENT:** SELLER represents and warrants that SELLER is not a "foreign person" as defined in the Foreign Investment in Real Property Tax Act ("FIRPTA"), 26 U.S.C. § 1445, and will deliver to BUYER, at closing, a fully executed **Non-Foreign Seller Affidavit** in a form acceptable under FIRPTA and applicable Treasury Regulations. If SELLER is a foreign person as defined by FIRPTA, or if Seller fails to provide such affidavit, or if Buyer has actual knowledge that the affidavit is

Deleted: C

Deleted: C

Deleted: C

Formatted: Not Highlight

Deleted: C

Deleted: C

Deleted: C

Deleted: Can you write a clause for us, for a new (and kept simple) Paragraph 19, to address FIRPTA? Our group would like to see a statement that says that Seller understands that in accordance with FIRPTA, up to 15% withholding will occur toward taxes in accordance with FIRPTA, unless the Seller provides required documentation to title company to show they are not foreign, or are exempt. From Lawyer's title.

Deleted: I



false, Buyer is authorized to withhold from the SELLER'S proceeds any amount required by FIRPTA and remit such funds to the Internal Revenue Service. Any FIRPTA-required withholding resulting from Seller's status shall be treated as a credit against the SELLER'S proceeds and shall not delay closing.

Deleted: purchase price

Deleted: purchase price

Deleted: Seller represents that Seller is not a foreign person as described in the Foreign Investment in Real Property Tax Act and agrees to deliver Seller's tax identification number at closing.¶

Deleted: 19

Deleted: C

Deleted: 20

**20. INTERIM MAINTENANCE / FINAL WALK THROUGH:** Between the date of this Contract and the Closing Date, the Property shall be maintained by SELLER in the same condition as at the date of this Contract, ordinary wear and tear excepted. Prior to closing, BUYER / BUYER's representative shall have the opportunity to conduct a final walk through of the property to assure that all conditions of this Contract and any addenda and/or amendments thereto have been met.

**21. UTILITIES:** BUYER agrees to have all utilities changed to BUYER'S name as of the Closing Date, and further agrees that SELLER is entitled to all utility deposits made by SELLER in relation to the operation of the Property. SELLER will keep water, gas, and electric services on until the date of closing, unless otherwise agreed in writing. SELLER will pay all utility charges up through Closing Date. Final readings to be promptly requested by SELLER.

**22. MEDIATION:** Any dispute or claim arising out of or relating to this contract, the breach of this contract or the services provided in relation to this contract, shall be submitted to mediation in accordance with the Home Sellers/Homebuyers Rules and Procedures of the Dispute Resolution System. Disputes shall include representations made by the BUYER, SELLER, or any real estate broker/licensee in connection with the sale, purchase, financing, condition, or other aspect of the Property including, without limitation, allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding.

Deleted: 21

Deleted: ¶

The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a mortgage, escrow contract, or installment contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; or (e) violation of Kansas real estate license laws. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

By signing below the parties hereby acknowledge receipt of the standard announcement brochure for the Home Sellers/Homebuyers Dispute Resolution System, and agree to submit disputes, as described above, to mediation, in accordance with the Home Sellers/Homebuyers Dispute Resolution System, and rules and procedures of the mediation provider.

**23. DEFAULTS AND REMEDIES:** Subject to the Mediation Provision in this Contract, SELLER or BUYER shall be in default under this Contract if either fails to comply with any material covenant, agreement or obligation within any time limits required by this Contract.

Deleted: 2

a. **Default by SELLER:** In the event SELLER is unable or fails to furnish title or possession as agreed in this Contract, BUYER may **CANCEL THIS CONTRACT** by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void. If, however, SELLER'S failure to furnish marketable title to BUYER shall be caused by SELLER'S willful act or omission, BUYER shall be entitled to pursue any remedies available at law or in equity.

b. **Default by BUYER:** If BUYER does not pay all sums and comply with all obligations hereunder within the time provided, SELLER may notify Escrow Agent and BUYER in writing, in which case all sums paid shall be retained for the account of SELLER as liquidated damages in full settlement of any claims, the Deed shall be returned to SELLER, and all parties shall be relieved of any obligation hereunder, or SELLER may pursue such other remedies as provided by law or in equity.

A party determined to be in default of its obligations under this Contract by a court of competent jurisdiction shall be liable to the non-defaulting party for the non-defaulting party's reasonable attorney fees, court costs or other expenses of any nature incurred by the non-defaulting party as a result of the default or as necessary to enforce the non-defaulting party's rights under this Contract. This award of fees, costs and expenses to the non-defaulting party shall in no way be construed as a limitation to the damages or relief which the non-defaulting party may be entitled to at law or in equity.

**24. ESCROW:** Escrow Agent is authorized and agrees to hold all payments in an escrow or trust account pursuant to Kansas Statutes and to disburse at Closing as provided in this Contract. In case of doubt or question as to liabilities, Escrow Agent may (a) continue to hold all funds until the parties mutually agree in writing or until a court of competent jurisdiction determines the rights of the parties, or (b) deposit all funds so held with the Clerk of the District Court of the county in which the Property is located and, after notifying all parties in writing, Escrow Agent's liability shall cease, except to account for any sums previously delivered. If, because of duties as Escrow Agent, Escrow Agent is made a party to any suit or proceeding, Escrow Agent shall be indemnified for all costs and expense by the parties. Escrow Agent shall not be liable to any person for mis-delivery to BUYER or SELLER of escrow funds unless due to willful breach of this Contract or gross negligence. Any interest earned on monies held in escrow by Escrow Agent shall inure to Escrow Agent. Escrow fees shall be charged one-half to BUYER and one-half to SELLER. Notwithstanding any other terms of this Contract providing for forfeiture or refund of the earnest money deposit, the parties understand that applicable Kansas real estate laws prohibit the Escrow Agent from distributing the earnest money, once deposited, without the consent of all parties to this Contract. BUYER and SELLER agree that failure by either to respond in writing to a certified letter from Escrow Agent or Broker within **seven (7)** calendar days of receipt thereof or failure to make

Deleted: 3



written demand for return or forfeiture of an earnest money deposit within **thirty (30)** calendar days of notice of cancellation of this Contract shall constitute consent to distribution of the earnest money as suggested in any such certified letter or as demanded by the other party hereto.

**25. RISK OF LOSS PRIOR TO CLOSING:** In the event that prior to closing and delivery of the Deed, any of the improvements or contents which are a part of the Property being sold hereunder are lost or damaged by fire, flood, wind, hail or other causes which would normally be covered by an "all risk" hazard policy of insurance, the following shall apply:

- a. The proceeds of any insurance on such improvements or contents shall belong to SELLER. SELLER, at SELLER'S option, may repair such loss or damage so as to restore the improvements or contents to as good a condition as exists at the date of execution of this Contract, except that in the case of new construction, SELLER shall have improvements completed as per attached plans and specifications.
- b. If SELLER does not, prior to the Closing Date, replace or restore to their previous condition the improvements or contents that are damaged, BUYER may cancel this Contract by giving written notice to SELLER.
- c. In the event of cancellation of this Contract by BUYER pursuant to the terms of this paragraph, all earnest money and any other money paid directly to SELLER shall be returned to the BUYER and this Contract shall be null and void.

Deleted: 4

Deleted: C

**26. INGRESS AND EGRESS:** SELLER warrants that there is ingress to and egress from the above-described Property.

Deleted: 5

**27. ADDITIONAL DISCLOSURES INCLUDING THOSE MANDATED BY STATE OR FEDERAL LAW**

Deleted: 6

a. **Kansas Bureau of Investigation Information:** Kansas law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If you, as the Buyer, desire information regarding those registrants, you may find information on the homepage of the Kansas Bureau of Investigation (KBI) at <http://www.Kansas.gov/kbi> or by contacting the local Sheriff's Office.

b. **Radon:** Every buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires sellers to disclose any information known to the seller that shows elevated concentrations of radon gas in residential real property. The Kansas Department of Health and Environment recommends all homebuyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can be easily reduced by a radon mitigation technician. For additional information go to <http://www.kansasradonprogram.org>.

Deleted: ¶

c. **Lead Based Paint Disclosure.** If the property was built prior to 1978, BUYER acknowledges receiving, reading and signing the Federally required disclosure regarding lead-based paint.

**28. Financial Crimes Enforcement Network (FinCEN) Real Estate Reporting ("FinCEN Report")**

Deleted: 7

Section 1010.821 of Chapter 31 of the Code of Federal Regulations ("Code") requires that certain residential real estate transactions purchased with all cash or without institutional lender financing, where at least one buyer/transferee is a legal entity, limited liability company, corporation, trust, trustee or other non-natural person, must be reported to the United States Treasury Department's Financial Crimes Enforcement Network (FinCEN).

IF THIS TRANSACTION IS SUBJECT TO THE FINCEN REPORT, then Seller and Buyer shall no later than closing, provide the closing agent the information and documentation necessary to enable the closing agent to complete the FinCEN Report. Such information and documentation include full legal name, date of birth, residential street address, and the IRS taxpayer identification number of the beneficial owners of the Buyer, as further defined and described in the Code. Buyer shall also pay all costs and fees to prepare and file the FinCEN Report. In the event Seller or Buyer fails or refuses to provide information necessary for a required FinCEN Report such that closing cannot be completed, the defaulting party shall be subject to any and all remedies under Paragraph 22 of this Contract and Kansas law, in addition to any civil and criminal penalties which may be imposed by the U.S. Department of Treasury.

Deleted: company conducting the

Deleted: company

**29. VARIABLES:** Balance subject to prorating and adjustment shall be increased or decreased as may be required by interest, other expenses and revenue to Closing Date. The amount of any mortgage escrow deposits shall be credited to SELLER.

Deleted: 8

**30. FEMININE-MASCULINE, SINGULAR-PLURAL:** Wherever used, singular shall include the plural, plural the singular, and use of any gender shall include all genders.

Deleted: 289

**31. KANSAS LAW APPLIES:** This Contract and its validity, construction and performance shall be governed by the laws of Kansas.

Deleted: 2930

**31. TIME:** Time is of the essence in this Contract. No advancement or delay will be granted unless in writing and signed by the parties. Any reference to a time period shall mean calendar days, unless otherwise specified. Should the end of a time period fall on a legal holiday, the termination time shall be extended to 5:00 p.m. of the next calendar day. All time references in this contract will be considered Central Time zone.

Deleted: 0

**32. MERGER CLAUSE:** These terms are intended by the parties as a complete, conclusive and final expression of all the conditions of their Contract. No other promises, statements, warranties, agreements or understanding, oral or written, made prior to or at the signing thereof, shall be binding unless in writing and signed by all parties and attached hereto.

Deleted: 1



33. **PERSONS BOUND-COPIES:** This Contract shall extend to and bind the heirs, executors, administrators, successors and assigns of the parties hereto, and may be executed in any number of counterparts, each of which shall be deemed an original, or in multiple originals, and all such counterparts or originals shall, for all purposes, constitute one agreement.

Deleted: 2

34. **LEGAL AND TAX COUNSELING:** Both parties acknowledge the opportunity to obtain legal and tax counseling to review this Contract.

Deleted: 3

35. **ELECTRONIC SIGNATURES AND TRANSACTIONS:** BUYER, SELLER and BROKERS agree that this transaction may be conducted through electronic means according to the Kansas Uniform Electronic Transactions Act. For purposes of this document and any addenda, attachments or amendments thereto, BUYER and SELLER agree to accept electronic signatures and initials, or scanned originals delivered electronically, as originals. However, BROKERS have no authority or power of attorney to enter into electronic agreements with other parties on behalf of the BUYER or SELLER without the BUYER'S or SELLER'S explicit authorization.

Deleted: 34. **FACSIMILE/ELECTRONIC DELIVERY:** For purposes of this document and any addenda, attachments or amendments thereto, BUYER and SELLER agree to accept facsimile (FAX) signatures and initials, or scanned originals delivered electronically, as originals.¶

Formatted: Not Highlight

Deleted:

Deleted:

Formatted: Indent: First line: 0"

**Cyber Protection:** Because you are going to be involved in a real estate transaction where money is changing hands, you are a potential target for cyber-criminals. Always contact the closer directly before wiring any money.

36. **MARKETING INSTRUCTIONS:** BUYER and SELLER agree that SELLER, at SELLER'S option, may continue to market this Property for sale and may accept other contracts, so long as those contracts shall be subordinate to this Contract.

37. **ATTACHMENTS:** The following items have been addressed, attached, and incorporated into this Contract:

- |  |   |
|--|---|
| <input type="checkbox"/> Flood Plain Attachment        | <input type="checkbox"/> Appraised Value Contingency Addendum   |
| <input type="checkbox"/> Plans/Specifications          | <input type="checkbox"/> New Construction Warranty Addendum     |
| <input type="checkbox"/> Environmental Disclosures     | <input type="checkbox"/> Agency Franchise Disclosure Addendum   |
| <input type="checkbox"/> Sale of Residence Contingency | <input type="checkbox"/> New Construction Performance Standards |
| <input type="checkbox"/> Rural Property Attachment     | <input type="checkbox"/> _____                                  |
| <input type="checkbox"/> Lead-Based Paint Disclosure   | <input type="checkbox"/> _____                                  |
| <input type="checkbox"/> Short Sale Addendum           | <input type="checkbox"/> _____                                  |

38. **SUPPLEMENTAL INFORMATION:** The parties acknowledge receipt of the following documented information:

- |  |  |
|--|--|
| <input type="checkbox"/> Plat                                | <input type="checkbox"/> Inspection Report(s)        |
| <input type="checkbox"/> HOA Information                     | <input type="checkbox"/> Transaction Broker Addendum |
| <input type="checkbox"/> Covenants/Restrictions              | <input type="checkbox"/> _____                       |
| <input type="checkbox"/> Kansas Energy Efficiency Disclosure | <input type="checkbox"/> _____                       |
| <input type="checkbox"/> Home Warranty Program               | <input type="checkbox"/> _____                       |

39. **SPECIAL PROVISIONS:**

40. **ACCEPTANCE OF CONTRACT:** This Contract must be executed by all parties before \_\_\_\_ ☐ a.m. ☐ p.m., on \_\_\_\_ (date), or it shall be null, and void.

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

BUYER \_\_\_\_\_ DATE \_\_\_\_\_

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

BUYER \_\_\_\_\_ DATE \_\_\_\_\_

#### OPTIONAL Contact Information

Listing Company \_\_\_\_\_

Listing Licensee (Please Print) \_\_\_\_\_

Address \_\_\_\_\_

Listing Licensee's Phone # \_\_\_\_\_ / Listing Company Phone # \_\_\_\_\_



Listing Licensee's Email Address

Selling Company

Address

Selling Licensee (Please Print)

Selling Licensee's Phone # / Selling Company Phone #

Selling Licensee's Email Address



☐ If checked, this Sales Contract Template has been modified by \_\_\_\_\_ (name), \_\_\_\_\_ (insert date mm/dd/yyyy).

# SALES CONTRACT

File Number \_\_\_\_\_

**THIS CONTRACT TEMPLATE APPROVED BY LEGAL COUNSEL FOR THE LAWRENCE BOARD OF REALTORS®  
THIS IS A LEGALLY BINDING CONTRACT, NOT AN OPTION**

SELLER(S) \_\_\_\_\_

If known, please include Marital Status for each Seller – ASP (a single person), AMP (a married person), AMC (a married couple)

BUYER(S) \_\_\_\_\_

If known, please include Marital Status for each Buyer – ASP (a single person), AMP (a married person), AMC (a married couple)

Taking title as:

☐ Joint Tenancy ☐ Tenants in Common ☐

The Property described is sold and purchased on the following terms:

1. a. Legal Description / Include County: \_\_\_\_\_

b. Street Address: \_\_\_\_\_ City, State Zip \_\_\_\_\_

c. The following personal property items are of no value and are being left for the convenience of all parties.

d. Personal Property excluded:

## 2. PRICE:

\$ \_\_\_\_\_

a. Earnest money held in trust account by \_\_\_\_\_ hereinafter referred to as Escrow Agent.

\$ \_\_\_\_\_

☐ Earnest Money Attached

☐ To be delivered to \_\_\_\_\_

(Escrow Agent if left blank) no later than \_\_\_\_\_ business days (five (5) if left blank) after contract acceptance.

In the form of (Select 1 option only):

☐ Personal Check

☐ Cashier's Check

☐ ACH/Debit Card

☐ Wire Transfer

☐ Other \_\_\_\_\_

b. New mortgage proceeds: See Paragraph #3: Financing  
(Amount does not include MIP, Funding Fee, or Guarantee Fee)

\$ \_\_\_\_\_

c. Other: \_\_\_\_\_

\$ \_\_\_\_\_

d. Balance of purchase price subject to adjustment and prorating, paid in certified funds at closing (Price less a, b & c of this paragraph)

\$ \_\_\_\_\_

e. Additional SELLER paid costs (zero if left blank). In addition to any other costs SELLER agreed to pay herein, SELLER agrees to pay other allowable closing costs permitted by Lender(s) and/or prepaid items for BUYER, not to exceed

\$ \_\_\_\_\_



**3. FINANCING:**☐ **THIS IS A CASH SALE**☐ **THIS IS A FINANCED SALE:** This Contract is contingent upon BUYER obtaining the financing described in this paragraph, provided by: Lending Institution \_\_\_\_\_, Loan Officer \_\_\_\_\_.a. **Type of Financing:** Loan(s) will be ☐ owner-occupied loan(s), or ☐ investment loan(s), or ☐ interim or bridge financingb. **Loan Type:**☐ Conventional☐ FHA

It is expressly agreed that, notwithstanding any other provision of this Contract, the BUYER shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the BUYER has been given in accordance with HUD/FHA or VA requirements, a written statement issued by the Federal Housing Commissioner, Veterans Administration, or a Direct Endorsement Lender setting forth the appraised value of the property (excluding closing costs) of not less than the Sale Price of the Contract (Contract Price), which statement the Mortgagee agrees to deliver to the BUYER promptly after such appraised value statement is made available to the Mortgagee. However, the BUYER shall have the privilege and option of proceeding with the consummation of the Contract without regard to the amount of the appraised valuation made by the Federal Housing Commissioner. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development (HUD) will insure. HUD does not warrant the value or the condition of the property. The BUYER should satisfy himself/herself that the price and the condition of the property are acceptable.

☐ VA

It is expressly agreed that, notwithstanding any other provision of this Contract, the BUYER shall not incur any penalty by forfeiture of earnest money or otherwise or be obligated to complete the purchase of the property described herein, if the Contract Price exceeds the reasonable value of the property established by the Veterans Administration. However, the BUYER shall have the privilege and option of proceeding with the consummation of this Contract without regard to the amount of reasonable value established by the Veterans Administration.

☐ Rural Development☐ Other \_\_\_\_\_c. **Loan Terms:**

Initial Interest rate not to exceed \_\_\_\_\_ %, points not to exceed \_\_\_\_\_ points,  
For a term of \_\_\_\_\_ years. Check if: ☐ Fixed, or ☐ Variable.

BUYER'S lender may afford BUYER the option to "lock in" the foregoing interest rate or to "float" the interest rate. If BUYER locks in a rate, BUYER agrees to accept the "locked" rate and terms, even if different than those stated above. If BUYER has received a firm commitment from a lender on terms at or better than the terms stated above, and BUYER elects to float the rate, then BUYER agrees to accept the rate and terms available from BUYER'S lender for which BUYER qualifies at closing. BUYER may obtain a loan on different Loan Terms than those described in 3c, provided that the Loan Terms of the loan do not result in additional costs to SELLER.

d. **Loan Approval:**i: BUYER'S loan approval ☐ is not ☐ is contingent on BUYER receiving proceeds from sale/closing of property located at \_\_\_\_\_.

ii: If money is being borrowed, then this Contract is conditioned upon BUYER obtaining a written firm commitment, which must include (if required by Lender) a satisfactory appraisal, credit verification, income/assets verification, and PMI approval, for a new purchase money mortgage in the principal amount of no more than the above-stated new mortgage proceeds by, on, or before \_\_\_\_\_ (5 business days prior to closing if left blank).

BUYER shall act diligently and in good faith to obtain a mortgage loan as set out in this paragraph and shall make loan application within **five (5)** business days of the acceptance of this contract. BUYER may, at BUYER'S option, accept a firm loan commitment for less than the amount identified in 2b. BUYER agrees to accept any firm commitment which meets the terms set out in this paragraph and agrees to comply with all requirements of the commitment. BUYER shall furnish SELLER with a copy of the commitment promptly after BUYER receives it. If BUYER is unable to obtain a commitment for the Loan(s) within the loan approval period, then, unless the parties agree to extend such date or BUYER delivers to SELLER a written waiver of this condition, **BUYER or SELLER may CANCEL THIS CONTRACT** by delivering written notice to the other of their intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER, and this Contract shall be deemed null and void. If BUYER is unable to obtain the financing described herein, BUYER shall provide written evidence of rejection.





**4. CLOSING DATE/DELIVERY OF DEED/DISTRIBUTION OF PROCEEDS:**

- a. The Closing Date shall be \_\_\_\_\_, unless both parties agree in writing to advance or delay the closing. "Closing" refers to the settlement of the transaction where the purchase price is paid to Seller, prorations are made and the deed is delivered to Buyer. Seller shall deliver possession and provide keys to Buyer immediately following payment of the purchase price to Seller and recording of the deed. Buyer shall not occupy the Property or place personal property in or on the Premises prior to recording of the deed without the prior written consent of Seller. If the Property is rented, the tenancy will be disclosed pursuant to paragraph eight (8) of this Contract.
- b. Unless otherwise agreed by the parties, at least three (3) calendar days before the Closing Date, SELLER shall execute and deliver to the Title Company or other closing agent, a general warranty deed or special warranty deed, or fiduciary deed (if SELLER is a corporation financial institution or fiduciary), and all other documents and funds reasonably necessary to complete the closing. **On or before the Closing Date, SELLER and BUYER agree to deliver to the closing agent a CASHIER'S CHECK, WIRE, OR OTHER CERTIFIED FUNDS sufficient to satisfy their respective obligations under this Contract.**
- c. BUYER shall pay the closing fee. "Closing fee" is the fee charged by the closing agent with a title company, or closing company, to facilitate the closing of the real estate transaction.

5. **TITLE INSURANCE:** SELLER shall furnish BUYER marketable title, from \_\_\_\_\_ (Escrow Agent if left blank), subject to liens, encumbrances, exceptions, or qualifications specified in this Contract and those which shall be discharged by SELLER at or before closing. SELLER shall furnish BUYER, before closing, a commitment for an owner's title insurance policy in the amount of the purchase price, insuring BUYER'S title subject only to liens, encumbrances, exceptions, or qualifications set forth in this Contract, and those which shall be discharged by SELLER at or before closing. BUYER shall have **five (5)** calendar days after receipt, to examine the title insurance commitment and to notify SELLER in writing of any requirements to make the title marketable. SELLER shall have until closing to cause the title to be made marketable. If defects precluding marketability are not removed by closing, BUYER may either accept title or **CANCEL THIS CONTRACT** by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void. SELLER shall diligently attempt, before closing, to correct any defects to marketability of which BUYER has notified SELLER in writing and shall file and pursue any legal proceedings reasonably necessary to correct such defects. In case of dispute between the parties as to marketability of the title, the Title Standards adopted from time to time by the Bar Association of the State of Kansas, and the Kansas Marketable Record Title Act, as amended, shall control. Buyer agrees to use the title company selected by Seller for all applicable title services, unless otherwise stated in Special Provisions.

It is BUYER'S responsibility to perform due diligence and verify any information related to encumbrances which do not affect the marketability of title, including but not limited to HOA documents or easements of record. If the Property is governed by a homeowner's association, it is recommended that the BUYER request from the HOA any documents which BUYER considers material. Any information provided by the Broker(s) and its affiliated licensee(s) assisting in this transaction is for information and marketing purposes only.

6. **SURVEY:** BUYER may, at BUYER'S expense, obtain a "staked" survey of the Property before the Closing Date to assure that there are no defects, encroachments, overlaps, boundary line or acreage disputes, or other such matters, that would be disclosed by a survey. BUYER acknowledges that a Mortgage Inspection Report or "Loan Survey" normally required by a lending institution is not a "staked" survey. A title insurance company typically requires a "staked" survey in order to provide survey coverage to the BUYER. Prior to the Closing Date, BUYER shall notify SELLER of any encroachments of any improvements upon, from, or onto the Property or any building setback line, property line, or easement, which encroachment shall be deemed to be a title defect. SELLER shall remedy such defects as are susceptible of being remedied prior to the Closing Date. If SELLER does not so remedy the defects in title, BUYER shall have the option of (a) completing this purchase and accepting the title SELLER is able to convey without adjustment in the purchase price, or (b) **CANCEL THIS CONTRACT** by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void.

**7. INSPECTIONS:**

BUYER or BUYER'S representative, at BUYER'S expense, shall have the right, on or before \_\_\_\_\_ calendar days (Ten (10) if left blank) (the Inspection Period) after Contract acceptance date, to conduct and complete inspections to evaluate the present condition of the Property and its major systems. All inspections BUYER deems necessary must be completed by the end of the allowed Inspection Period (inspection(s), inspection(s) results, and all written inspection reports). BUYER may have the Property inspected by an **independent, qualified inspector(s)**, including, without limitation, the following: (1) mechanical equipment, plumbing and electrical systems, heating and central air conditioning system; (2) structural aspects of the Property, including without limitation, the following: foundation, slab, drainage, roof, fireplace, chimney, siding, windows, doors, ceiling, floors, walls, insulation, the interior, the exterior, fence, deck, patio, sidewalk or driveway; (3) environmental or health hazards affecting the Property, including without limitation, the following: radon gas, asbestos, mold, lead based paint, or any other environmental or health hazard. (4) Active pest infestation, existence of active infestation by, and/or damage from, termite/wood-destroying pests (or evidence of past untreated infestation).



☐ **See Rural Property Attachment to the Sales Contract.**

- a. **Access to Property and Re-Inspections:** SELLER shall afford BUYER reasonable access to the Property to conduct the inspection(s), re-inspection(s) inspection of any repair(s) completed by SELLER, and/or final walk-through, prior to closing. Such inspections shall be scheduled at any reasonable time convenient to SELLER. BUYER shall be responsible for correcting and/or paying for any damage to the Property resulting from the inspection(s).
- b. **Inspection Reports:** BUYER/BUYER's Representative shall provide SELLER/SELLER's Representative with a copy of all written inspection report(s) no later than BUYER'S notice of cancellation, AS-IS acceptance, or submission of deficiencies. Upon receipt of inspection reports, SELLER, at SELLER'S option, may share inspection reports at their discretion.
- c. **Exclusions from Inspection: Any items that are strictly of a cosmetic nature that do not pertain to the mechanical or structural integrity or safety of the Property.** Inspections are not intended to identify either cosmetic imperfections or other features of the Property. The following items are expressly excluded from the foregoing inspection provisions, shall not be considered unacceptable conditions, and may not be used by the BUYER as a basis for canceling this Contract or requesting repairs: \_\_\_\_\_
- d. **Unacceptable Conditions:** Any condition identified in a written inspection report(s) prepared by an independent qualified inspector(s) of BUYER's choice, which condition(s) is unacceptable to BUYER (Deficiencies) and not otherwise excluded by this Contract.

If BUYER'S inspection(s) reveal deficiencies, BUYER may perform either of the following with a marked checkbox, or checkboxes, within the Inspection Period:

☐ **CANCEL THIS CONTRACT** by delivering written notice to SELLER/SELLER'S Representative of BUYER's intent to cancel in the form of a written contract cancellation agreement prior to the expiration of the Inspection Period, **OR ACCEPT THE PROPERTY IN ITS PRESENT "AS-IS" Condition** by delivering written notice to SELLER/SELLER'S Representative of BUYER's intent to accept the property in its present "**AS-IS**" condition. At BUYER'S option, a cancellation notice may be submitted **together with** an alternative written proposal requesting modifications to the terms of this Contract for SELLER'S consideration. Execution by SELLER of either document shall constitute rejection of the other, and any signed cancellation agreement shall render this Contract null and void and direct return of Earnest Money to BUYER as provided herein.

☐ **REQUIRE REPAIRS** of SELLER by delivering written notice to SELLER/SELLER'S Representative of deficiencies which exist in/on the Property which require correction by SELLER. Said deficiencies must be delivered to SELLER/SELLER'S Representative in writing prior to the expiration of the Inspection Period by providing an itemized list describing the deficiencies in reasonable detail. BUYER and SELLER will have \_\_\_\_\_ **Calendar Days** (5 if left blank) after SELLER'S/SELLER'S Representative receipt of BUYER'S notice of deficiencies (the "Inspection Negotiation Period"), to reach a written agreement detailing the resolution of the deficiencies **OR ACCEPT THE PROPERTY IN ITS PRESENT "AS-IS" Condition** by delivering written notice to SELLER/SELLER'S Representative of BUYER's intent to accept the property in its present "**AS-IS**" condition. BUYER may, at BUYER'S option, submit an alternative written proposal requesting modifications to the terms of this Contract together with BUYER'S written notice of deficiencies for SELLER'S consideration prior to the expiration of the Inspection Period.

Cost to correct deficiencies: BUYER shall pay \$ \_\_\_\_\_ (\$0 if left blank) towards the total costs of agreed upon repairs, and any costs required above such amount shall be paid by SELLER.

- i. Any of the following executed and delivered to the other party or other party's representative prior to the expiration of the Inspection Negotiation Period will constitute such an agreement:
  - a. SELLER'S signature agreeing to do everything requested by BUYER on the original notice of deficiencies; or
  - b. A mutually agreed upon statement of resolution, signed by BUYER and SELLER.
  - c. BUYER'S signature on a statement of deficiencies accepting the Property in its present condition.
- ii. If no agreement resolving the deficiencies is reached during the Inspection Negotiation Period as provided above, then after the expiration of the Inspection Negotiation Period any of the following is permitted under the Contract:
  - a. Negotiations between SELLER and BUYER may still proceed. However, any agreement resolving the deficiencies must be in writing and signed by both parties.

- b. Within **one** (1) calendar day of the expiration of the Inspection Negotiation Period Buyer may accept the property in its present "As-Is" condition by delivering BUYER'S written executed notice.
- c. BUYER or SELLER may CANCEL THIS CONTRACT, after the expiration of the **one** (1) calendar day period above, by delivering written notice to the other of their intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER, and this Contract shall be deemed null and void.
- e. BUYER'S notice of cancellation, AS-IS acceptance, or submission of deficiencies terminates the Inspection Period.
- f. **Quality of Repairs:** SELLER agrees that any corrections which SELLER performs shall be completed in a workmanlike manner with good quality materials.
- g. **Failure to Inspect/Failure to Deliver Written Notice to SELLER:** If BUYER fails to conduct an inspection(s) and/or deliver a written notice to SELLER/SELLER's Representative per paragraph 7d, BUYER shall have waived any right to cancel and/or right to repairs due to deficiencies which might reasonably have been discovered by an inspection, and shall be deemed to have accepted the Property in its present "As Is" condition at closing.
- h. ☐ **Waiver of Inspections:** Buyer hereby waives the right to conduct inspections. BUYER shall have waived any right to cancel and/or right to repairs due to unacceptable conditions which might reasonably have been discovered by an inspection and shall be deemed to have accepted the Property in its present "As Is" condition at closing.

By initialing below, BUYER hereby waives the right to conduct inspections.

\_\_\_\_\_  
BUYER'S INITIALS

\_\_\_\_\_  
BUYER'S INITIALS

**8. OCCUPANTS OTHER THAN SELLER:**

☐ Check if the property is currently leased.

If the property, or any portion of the property is currently leased, and the lease extends beyond the closing date, on or before \_\_\_\_\_ calendar days (5 if left blank) after Contract acceptance date, SELLER shall furnish BUYER with copies of all leases, and records of all received rents and deposits paid. Buyer shall have three (3) calendar days from receipt of all leases and records of all received rents and deposits to CANCEL THIS CONTRACT by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void. SELLER shall deliver and assign to BUYER all original leases on Closing Date. Advance rents, deposits and prorated rents will be credited to BUYER at closing. BUYER shall assume all obligations under the leases and indemnify and hold the SELLER harmless with respect to the BUYER'S performance under such leases.

If the property is currently leased and the lease terminates prior to closing, SELLER will provide written evidence of lease termination in lieu of copies of all leases, and records of all received rents and deposits paid within the time period in the paragraph above. Unless otherwise agreed, no new leases or modifications/extensions to existing leases will be negotiated and/or executed without the written permission of BUYER.

**9. SELLER'S DISCLOSURE STATEMENT:**

- a. SELLER shall provide BUYER with the following disclosure statements, as applicable, prior to the signing of this Contract: Seller's Property Condition Disclosure Statement, Lead-Based Paint Disclosure, and Kansas Energy Efficiency Disclosure. SELLER verifies that the Seller's Disclosure Statement, executed concurrently with the Exclusive Right of Sale, is current and valid to date.

\_\_\_\_\_  
SELLER'S INITIALS

\_\_\_\_\_  
SELLER'S INITIALS

- b. BUYER acknowledges receipt of the above applicable disclosure statements prior to, or concurrently with, signing of this contract.

\_\_\_\_\_  
BUYER'S INITIALS

\_\_\_\_\_  
BUYER'S INITIALS



**10. HOME WARRANTIES AND HAZARD INSURANCE:**

a. **BUYER'S Warranty Plan** (Check if applicable): ☐ SELLER or ☐ BUYER, at a cost not to exceed \$ \_\_\_\_\_ (amount not to include additional costs for SELLER'S coverage), agrees to purchase a homebuyer's warranty plan from \_\_\_\_\_ to be paid at closing. This plan is a limited-service contract covering repair or replacement of the working components of the Property for a minimum of one (1) year from the Closing Date subject to a per claim deductible of \$ \_\_\_\_\_.

The (Check one) ☐ Listing Agent ☐ Selling Agent shall be responsible for making arrangements for the warranty plan and submitting required documentation to the settlement agent prior to closing.

b. **By initialing below, both BUYER and SELLER are declining a warranty at this time.**

\_\_\_\_\_  
SELLER'S INITIALS

\_\_\_\_\_  
BUYER'S INITIALS

c. **Hazard Insurance:** BUYER acknowledges that hazard insurance is available through various sources.

**11. AGENCY DISCLOSURE:** (applicable sections must be checked): SELLER and BUYER acknowledge receiving the "Real Estate Brokerage Relationships" brochure prior to their execution of this Contract. SELLER and BUYER acknowledge that the real estate licensees involved in this transaction may be functioning as SELLER'S agents, BUYER'S agents, Designated Agents, or as Transaction Brokers. Pursuant to the following disclosure:

(Listing Company) \_\_\_\_\_ (Name of Licensee) \_\_\_\_\_  
is functioning as: ☐ SELLER'S Agent ☐ Designated SELLER'S Agent ☐ Transaction Broker

(Selling Company) \_\_\_\_\_ (Name of Licensee) \_\_\_\_\_  
is functioning as: ☐ SELLER'S Agent ☐ Designated SELLER'S Agent ☐ Transaction Broker  
☐ BUYER'S Agent ☐ Designated BUYER'S Agent

**Types of Brokerage Relationships:** A real estate licensee may work with a buyer or seller as a seller's agent, buyer's agent or transaction broker. The disclosure of the brokerage relationship between all licensees involved and the seller and buyer must be included in any contract for sale and in any lot reservation agreement.

**Seller's Agent:** The seller's agent represents the seller only, so the buyer may be either unrepresented or represented by another agent. In order to function as a seller's agent, the broker must enter into a written agreement to represent the seller. Under a seller agency agreement, all licensees at the brokerage are seller's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a seller's agent and the supervising broker of the designated agent functions as a transaction broker.

**Buyer's Agent:** The buyer's agent represents the buyer only, so the seller may be either unrepresented or represented by another agent. In order to function as a buyer's agent, the broker must enter into a written agreement to represent the buyer. Under a buyer agency agreement, all licensees at the brokerage are buyer's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a buyer's agent and the supervising broker of the designated agent functions as a transaction broker.

**A Transaction Broker** is not an agent for either party and does not advocate the interests of either party. A transaction brokerage agreement can be written or verbal.

Complete only if Licensee representing SELLER or BUYER has a financial interest as a SELLER OR BUYER, OR is an immediate family member of SELLER or BUYER:

☐ \_\_\_\_\_, Licensee assisting SELLER,  
☐ DOES HAVE a financial interest in this transaction AS A SELLER.  
☐ IS an immediate family member of a party that has a financial interest in this transaction as a SELLER.  
Licensee ☐ DOES ☐ DOES NOT have a financial interest due to this relationship.

☐ \_\_\_\_\_, Licensee assisting BUYER,  
☐ DOES HAVE a financial interest in this transaction AS A BUYER.  
☐ IS an immediate family member of a party that has a financial interest in this transaction as a BUYER.  
Licensee ☐ DOES ☐ DOES NOT have a financial interest due to this relationship.

For purposes of the foregoing disclosures, "immediate family member" means spouse, parent, child or sibling. "Interest" is defined in K.S.A. 58-3035(i).



12. **BUYER BROKERAGE COMPENSATION.** SELLER will pay and/or Listing Company is authorized to share from the compensation previously negotiated in the Exclusive Right to Sell Agreement compensation to Buyer Brokerage (Selling Company) of \_\_\_\_\_ % of the sales price as defined in Paragraph 2 of this Contract or \$ \_\_\_\_\_. SELLER authorizes payment of Buyer Broker Compensation from the compensation previously negotiated and authorized to be shared in the Exclusive Right to Sell Agreement. If the Buyer Brokerage Compensation set forth herein exceeds the amount authorized to be shared in the Exclusive Right to Sell Agreement, SELLER shall pay the balance at closing. Buyer's Brokerage fees, to include but not limited to brokerage commissions and other fees, will be paid out of escrow at closing, unless otherwise described above or in the terms of the respective agency agreements.

SELLER and BUYER understand and agree that Buyer's Brokerage may be compensated by more than one party in the transaction. (Check all applicable boxes).

Buyer's Brokerage compensated by ☐ SELLER and/or ☐ BUYER

Broker commissions are not set by law, regulation or policy of any real estate trade association. The compensation paid to a real estate broker is always fully negotiable. Compensation to the BUYER's Brokerage paid by SELLER or Listing Company, if any, shall not exceed the compensation negotiated between BUYER and the Buyer's Brokerage (Selling Company).

13. **RESTRICTIONS, EASEMENTS, LIMITATIONS, and TAXES:** BUYER shall take title subject to the following: zoning restrictions, prohibitions or other requirements imposed by governmental authority; restrictions, covenants and matters appearing on the plat of record; public utility easements of record, provided they are located contiguous to the Property lines; taxes and special assessments prorated up to but not including Closing Date, as described in Paragraph 18 of this Contract.
14. **TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Typewritten or handwritten provisions inserted or attached shall supersede all conflicting printed provisions.
15. **ASSIGNABILITY:** This Contract and any right or interest in the Property are assignable only with the written consent of SELLER and BUYER.
16. **CONTRACT ACCEPTANCE DATE:** Date of this Contract is the date the last party signed or initialed mutually acceptable changes.
17. **LIENS:** SELLER certifies that at closing there will be no lien claimants, nor potential lien claimants, nor improvements to the Property being sold for 120 calendar days prior to Closing Date. If there have been improvements on or to the above-described Property within 120 calendar days prior to the Closing Date, SELLER shall deliver releases or waivers from the general contractors, subcontractors, suppliers, and material men furnishing the labor or materials for such improvements, together with such affidavits as SELLER may reasonably require naming such persons and reciting that all bills that might serve as a basis for liens of any type have or will be paid prior to or at closing.
18. **TAXES & ASSESSMENTS:**
- Real Estate taxes and any installments of special assessments for the closing year shall be prorated up to but not including the Closing Date based upon the current available mill levy and assessed valuation. SELLER shall pay, or credit to BUYER as BUYER'S lender may require, the real estate taxes and any installments of special assessments for all prior years.
  - Taxes shall be prorated at closing with BUYER being responsible for payment of taxes on any parcels closed and recorded prior to December 20 of the current year.
  - In the event that improvements have been made or special benefits have been assessed upon the herein-described Property which were not in existence on January 1 of the previous year, then such proration shall be based on an equitable estimate agreed upon between the parties prior to closing.
  - Installments of special assessments becoming payable following closing shall be assumed by the BUYER.
  - BUYER and SELLER acknowledge that reappraisal of all real estate is an ongoing process in the State of Kansas, which may change the real estate taxes on this Property this year and in the future.
19. **FOREIGN INVESTMENT:** SELLER represents and warrants that SELLER is **not** a "foreign person" as defined in the Foreign Investment in Real Property Tax Act ("FIRPTA"), 26 U.S.C. § 1445, and will deliver to BUYER, at closing, a fully executed **Non-Foreign Seller Affidavit** in a form acceptable under FIRPTA and applicable Treasury Regulations. If SELLER is a foreign person as defined by FIRPTA, or if Seller fails to provide such affidavit, or if Buyer has actual knowledge that the affidavit is false, Buyer is authorized to withhold from the SELLER'S proceeds any amount required by FIRPTA and remit such funds to the Internal Revenue Service. Any FIRPTA-required withholding resulting from Seller's status shall be treated as a credit against the SELLER'S proceeds and shall not delay closing.
20. **INTERIM MAINTENANCE / FINAL WALK THROUGH:** Between the date of this Contract and the Closing Date, the Property shall be maintained by SELLER in the same condition as at the date of this Contract, ordinary wear and tear excepted. Prior to closing, BUYER / BUYER's representative shall have the opportunity to conduct a final walk through of the property to assure that all conditions of this Contract and any addenda and/or amendments thereto have been met.
21. **UTILITIES:** BUYER agrees to have all utilities changed to BUYER'S name as of the Closing Date, and further agrees that SELLER is entitled to all utility deposits made by SELLER in relation to the operation of the Property. SELLER will keep water,





gas, and electric services on until the date of closing, unless otherwise agreed in writing. SELLER will pay all utility charges up through Closing Date. Final readings to be promptly requested by SELLER.

22. **MEDIATION:** Any dispute or claim arising out of or relating to this contract, the breach of this contract or the services provided in relation to this contract, shall be submitted to mediation in accordance with the Home Sellers/Homebuyers Rules and Procedures of the Dispute Resolution System. Disputes shall include representations made by the BUYER, SELLER, or any real estate broker/licensee in connection with the sale, purchase, financing, condition, or other aspect of the Property including, without limitation, allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding.

The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a mortgage, escrow contract, or installment contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; or (e) violation of Kansas real estate license laws. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

By signing below the parties hereby acknowledge receipt of the standard announcement brochure for the Home Sellers/Homebuyers Dispute Resolution System, and agree to submit disputes, as described above, to mediation, in accordance with the Home Sellers/Homebuyers Dispute Resolution System, and rules and procedures of the mediation provider.

23. **DEFAULTS AND REMEDIES:** Subject to the Mediation Provision in this Contract, SELLER or BUYER shall be in default under this Contract if either fails to comply with any material covenant, agreement or obligation within any time limits required by this Contract.
- a. **Default by SELLER:** In the event SELLER is unable or fails to furnish title or possession as agreed in this Contract, BUYER may **CANCEL THIS CONTRACT** by delivering written notice to SELLER of BUYER's intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and this Contract shall be deemed null and void. If, however, SELLER'S failure to furnish marketable title to BUYER shall be caused by SELLER'S willful act or omission, BUYER shall be entitled to pursue any remedies available at law or in equity.
- b. **Default by BUYER:** If BUYER does not pay all sums and comply with all obligations hereunder within the time provided, SELLER may notify Escrow Agent and BUYER in writing, in which case all sums paid shall be retained for the account of SELLER as liquidated damages in full settlement of any claims, the Deed shall be returned to SELLER, and all parties shall be relieved of any obligation hereunder, or SELLER may pursue such other remedies as provided by law or in equity.

A party determined to be in default of its obligations under this Contract by a court of competent jurisdiction shall be liable to the non-defaulting party for the non-defaulting party's reasonable attorney fees, court costs or other expenses of any nature incurred by the non-defaulting party as a result of the default or as necessary to enforce the non-defaulting party's rights under this Contract. This award of fees, costs and expenses to the non-defaulting party shall in no way be construed as a limitation to the damages or relief which the non-defaulting party may be entitled to at law or in equity.

24. **ESCROW:** Escrow Agent is authorized and agrees to hold all payments in an escrow or trust account pursuant to Kansas Statutes and to disburse at Closing as provided in this Contract. In case of doubt or question as to liabilities, Escrow Agent may (a) continue to hold all funds until the parties mutually agree in writing or until a court of competent jurisdiction determines the rights of the parties, or (b) deposit all funds so held with the Clerk of the District Court of the county in which the Property is located and, after notifying all parties in writing, Escrow Agent's liability shall cease, except to account for any sums previously delivered. If, because of duties as Escrow Agent, Escrow Agent is made a party to any suit or proceeding, Escrow Agent shall be indemnified for all costs and expense by the parties. Escrow Agent shall not be liable to any person for mis-delivery to BUYER or SELLER of escrow funds unless due to willful breach of this Contract or gross negligence. Any interest earned on monies held in escrow by Escrow Agent shall inure to Escrow Agent. Escrow fees shall be charged one-half to BUYER and one-half to SELLER. Notwithstanding any other terms of this Contract providing for forfeiture or refund of the earnest money deposit, the parties understand that applicable Kansas real estate laws prohibit the Escrow Agent from distributing the earnest money, once deposited, without the consent of all parties to this Contract. BUYER and SELLER agree that failure by either to respond in writing to a certified letter from Escrow Agent or Broker within **seven (7)** calendar days of receipt thereof or failure to make written demand for return or forfeiture of an earnest money deposit within **thirty (30)** calendar days of notice of cancellation of this Contract shall constitute consent to distribution of the earnest money as suggested in any such certified letter or as demanded by the other party hereto.
25. **RISK OF LOSS PRIOR TO CLOSING:** In the event that prior to closing and delivery of the Deed, any of the improvements or contents which are a part of the Property being sold hereunder are lost or damaged by fire, flood, wind, hail or other causes which would normally be covered by an "all risk" hazard policy of insurance, the following shall apply:
- a. The proceeds of any insurance on such improvements or contents shall belong to SELLER. SELLER, at SELLER'S option, may repair such loss or damage so as to restore the improvements or contents to as good a condition as exists at the date



of execution of this Contract, except that in the case of new construction, SELLER shall have improvements completed as per attached plans and specifications.

- b. If SELLER does not, prior to the Closing Date, replace or restore to their previous condition the improvements or contents that are damaged, BUYER may cancel this Contract by giving written notice to SELLER.
- c. In the event of cancellation of this Contract by BUYER pursuant to the terms of this paragraph, all earnest money and any other money paid directly to SELLER shall be returned to the BUYER and this Contract shall be null and void.

26. **INGRESS AND EGRESS:** SELLER warrants that there is ingress to and egress from the above-described Property.

27. **ADDITIONAL DISCLOSURES INCLUDING THOSE MANDATED BY STATE OR FEDERAL LAW**

- a. **Kansas Bureau of Investigation Information:** Kansas law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If you, as the Buyer, desire information regarding those registrants, you may find information on the homepage of the Kansas Bureau of Investigation (KBI) at <http://www.Kansas.gov/kbi> or by contacting the local Sheriff's Office.
- b. **Radon:** Every buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires sellers to disclose any information known to the seller that shows elevated concentrations of radon gas in residential real property. The Kansas Department of Health and Environment recommends all homebuyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can be easily reduced by a radon mitigation technician. For additional information go to <http://www.kansasradonprogram.org>.
- c. **Lead Based Paint Disclosure.** If the property was built prior to 1978, BUYER acknowledges receiving, reading and signing the Federally required disclosure regarding lead-based paint.

28. **Financial Crimes Enforcement Network (FinCEN) Real Estate Reporting ("FinCEN Report")**

Section 1010.821 of Chapter 31 of the Code of Federal Regulations ("Code") requires that certain residential real estate transactions purchased with all cash or without institutional lender financing, where at least one buyer/transferee is a legal entity, limited liability company, corporation, trust, trustee or other non-natural person, must be reported to the United States Treasury Department's Financial Crimes Enforcement Network (FinCEN).

IF THIS TRANSACTION IS SUBJECT TO THE FinCEN REPORT, then Seller and Buyer shall no later than closing, provide the closing agent the information and documentation necessary to enable the closing agent to complete the FinCEN Report. Such information and documentation include full legal name, date of birth, residential street address, and the IRS taxpayer identification number of the beneficial owners of the Buyer, as further defined and described in the Code. Buyer shall also pay all costs and fees to prepare and file the FinCEN Report. In the event Seller or Buyer fails or refuses to provide information necessary for a required FinCEN Report such that closing cannot be completed, the defaulting party shall be subject to any and all remedies under Paragraph 22 of this Contract and Kansas law, in addition to any civil and criminal penalties which may be imposed by the U.S. Department of Treasury.

- 29. **VARIABLES:** Balance subject to prorating and adjustment shall be increased or decreased as may be required by interest, other expenses and revenue to Closing Date. The amount of any mortgage escrow deposits shall be credited to SELLER.
- 30. **FEMININE-MASCULINE, SINGULAR-PLURAL:** Wherever used, singular shall include the plural, plural the singular, and use of any gender shall include all genders.
- 31. **KANSAS LAW APPLIES:** This Contract and its validity, construction and performance shall be governed by the laws of Kansas.
- 31. **TIME:** Time is of the essence in this Contract. No advancement or delay will be granted unless in writing and signed by the parties. Any reference to a time period shall mean calendar days, unless otherwise specified. Should the end of a time period fall on a legal holiday, the termination time shall be extended to 5:00 p.m. of the next calendar day. All time references in this contract will be considered Central Time zone.
- 32. **MERGER CLAUSE:** These terms are intended by the parties as a complete, conclusive and final expression of all the conditions of their Contract. No other promises, statements, warranties, agreements or understanding, oral or written, made prior to or at the signing thereof, shall be binding unless in writing and signed by all parties and attached hereto.
- 33. **PERSONS BOUND-COPIES:** This Contract shall extend to and bind the heirs, executors, administrators, successors and assigns of the parties hereto, and may be executed in any number of counterparts, each of which shall be deemed an original, or in multiple originals, and all such counterparts or originals shall, for all purposes, constitute one agreement.
- 34. **LEGAL AND TAX COUNSELING:** Both parties acknowledge the opportunity to obtain legal and tax counseling to review this Contract.
- 35. **ELECTRONIC SIGNATURES AND TRANSACTIONS:** BUYER, SELLER and BROKERS agree that this transaction may be conducted through electronic means according to the Kansas Uniform Electronic Transactions Act. For purposes of this document and any addenda, attachments or amendments thereto, BUYER and SELLER agree to accept electronic signatures and initials,



or scanned originals delivered electronically, as originals. However, BROKERS have no authority or power of attorney to enter into electronic agreements with other parties on behalf of the BUYER or SELLER without the BUYER'S or SELLER'S explicit authorization.

**Cyber Protection:** Because you are going to be involved in a real estate transaction where money is changing hands, you are a potential target for cyber-criminals. Always contact the closer directly before wiring any money.

36. **MARKETING INSTRUCTIONS:** BUYER and SELLER agree that SELLER, at SELLER'S option, may continue to market this Property for sale and may accept other contracts, so long as those contracts shall be subordinate to this Contract.

37. **ATTACHMENTS:** The following items have been addressed, attached, and incorporated into this Contract:

- |  |   |
|--|---|
| <input type="checkbox"/> Flood Plain Attachment        | <input type="checkbox"/> Appraised Value Contingency Addendum   |
| <input type="checkbox"/> Plans/Specifications          | <input type="checkbox"/> New Construction Warranty Addendum     |
| <input type="checkbox"/> Environmental Disclosures     | <input type="checkbox"/> Agency Franchise Disclosure Addendum   |
| <input type="checkbox"/> Sale of Residence Contingency | <input type="checkbox"/> New Construction Performance Standards |
| <input type="checkbox"/> Rural Property Attachment     | <input type="checkbox"/> _____                                  |
| <input type="checkbox"/> Lead-Based Paint Disclosure   | <input type="checkbox"/> _____                                  |
| <input type="checkbox"/> Short Sale Addendum           | <input type="checkbox"/> _____                                  |

38. **SUPPLEMENTAL INFORMATION:** The parties acknowledge receipt of the following documented information:

- |  |  |
|--|--|
| <input type="checkbox"/> Plat                                | <input type="checkbox"/> Inspection Report(s)        |
| <input type="checkbox"/> HOA Information                     | <input type="checkbox"/> Transaction Broker Addendum |
| <input type="checkbox"/> Covenants/Restrictions              | <input type="checkbox"/> _____                       |
| <input type="checkbox"/> Kansas Energy Efficiency Disclosure | <input type="checkbox"/> _____                       |
| <input type="checkbox"/> Home Warranty Program               | <input type="checkbox"/> _____                       |

39. **SPECIAL PROVISIONS:**

40. **ACCEPTANCE OF CONTRACT:** This Contract must be executed by all parties before \_\_\_\_\_ ☐ a.m. ☐ p.m., on \_\_\_\_\_ (date), or it shall be null, and void.

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

BUYER \_\_\_\_\_ DATE \_\_\_\_\_

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

BUYER \_\_\_\_\_ DATE \_\_\_\_\_

#### **OPTIONAL Contact Information**

Listing Company \_\_\_\_\_

Selling Company \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

Listing Licensee (Please Print) \_\_\_\_\_

Selling Licensee (Please Print) \_\_\_\_\_

Listing Licensee's Phone # \_\_\_\_\_ / Listing Company Phone # \_\_\_\_\_

Selling Licensee's Phone # \_\_\_\_\_ / Selling Company Phone # \_\_\_\_\_

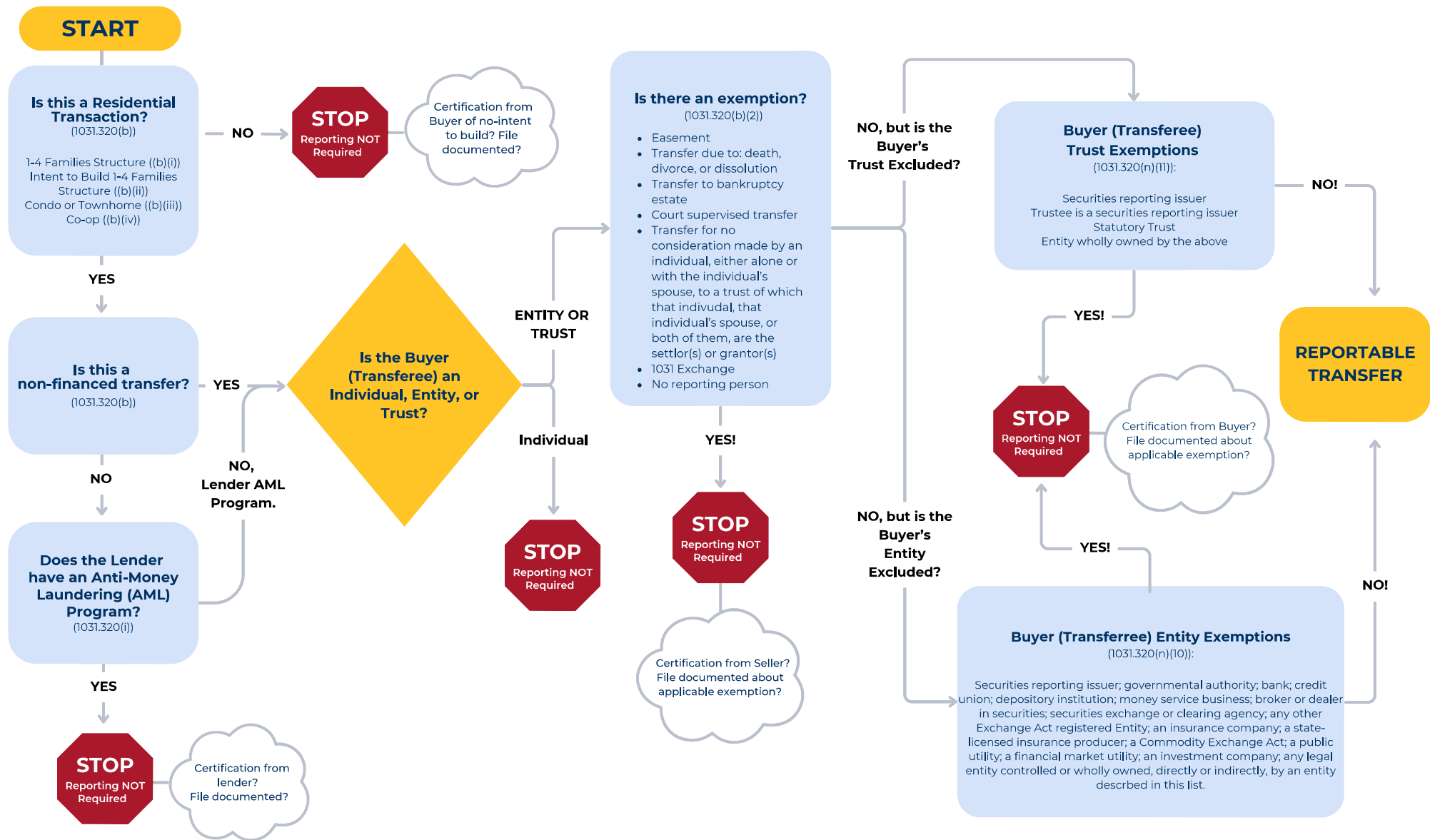
Listing Licensee's Email Address \_\_\_\_\_

Selling Licensee's Email Address \_\_\_\_\_





# FinCEN Real Estate Report Required?





# Transaction *Checklists*

The following pages contain checklists for your knowledge and to provide to consumers to educate them about what types of information will be collected. You will want to still use certification forms for reasonable reliance purposes but these checklists can help inform consumers!

## SELLER CHECKLISTS

Individual

Entity

Trust and Trustee

## BUYER CHECKLISTS

Entity & Entity Beneficial Owner

Trust & Trust Beneficial Owner

Funds for Acquisition

## MISCELLANEOUS

Property Information

Reporting Person

NOTE: This information is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice. We recommend you consult your legal counsel and subject-matter experts to determine appropriate policies, procedures and strategies applicable to your office or organization.

Federal law requires certain residential real estate transactions purchased with all cash or without institutional lender financing (where the lender has an anti-money laundering program) and where at least one buyer/transferee is a legal entity (corporation, LLC, partnership), trust, or other non-natural person, be reported to the United States Treasury Department's Financial Crimes Enforcement Network (FinCEN). FinCEN requires the following information be provided by Sellers according to these categories:

## Individual

- ☐ Full Legal Name
- ☐ Date of Birth
- ☐ Residential Street Address After Settlement (No P.O. Box)
- ☐ Unique ID - Tax ID (US) or Foreign ID/Passport and Country of Issuance

## Entity

- ☐ Full Legal Name of Entity
- ☐ Trade Name or "d/b/a"
- ☐ Street Address (No P.O. Box)
- ☐ Unique ID - Tax ID (US) or Foreign ID and Name of Jurisdiction

## Trust

- ☐ Full Legal Name of Trust as listed on Trust Document
- ☐ Date Trust Instrument Executed
- ☐ Unique ID - IRS TIN or Foreign ID and Name of Jurisdiction

## Trustee Information

- ☐ Full Legal Name
- ☐ Residential Street Address for Individuals or Principal Place of Business for Legal Entities
- ☐ Unique ID - Tax ID (US) or Foreign ID/Passport and Country of Issuance

NOTE: This information is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice. We recommend you consult your legal counsel and subject-matter experts to determine appropriate policies, procedures and strategies applicable to your office or organization.

## Entity Information

- ☐ Full Legal Name of Entity
- ☐ Trade Name or "d/b/a"
- ☐ Street Address (No P.O. Box)
- ☐ Unique ID - Tax ID (US) or Foreign ID and Name of Jurisdiction

## Beneficial Ownership - Entity

- ☐ Individuals with Substantial Control
- ☐ Owners above 25% on date of closing
- ☐ Signer of closing documents
- ☐ Full legal name, d/o/b, Residential Street Address, Citizenship, Tax ID (SSN) or Foreign Tax ID/Passport Number with Country of Issuance

## Funds for Acquisition - Entities & Trusts

- ☐ Originating Financial Institution
- ☐ Account Number
- ☐ Payor (Name on Account)
- ☐ Method of Payment (wire, check, other)
- ☐ Dollar Amount of Payment

OR

## Trust Information

- ☐ Full Legal Name of Trust as listed on Trust Document
- ☐ Date Trust Instrument Executed
- ☐ Unique ID - IRS TIN or Foreign ID and Name of Jurisdiction
- ☐ Is the Trust Revocable?

## Beneficial Ownership - Trust

- ☐ Trustees
- ☐ Someone other than trustee who may dispose of assets
- ☐ Sole beneficiary who can demand or make withdrawal of assets
- ☐ Grantor or settlor with right to revoke trust or withdraw assets
- ☐ Beneficial owner of legal entity or trust that is trustee of transferee trust
- ☐ Beneficial owner of legal entity or trust that is not a trustee and who may dispose of assets
- ☐ Beneficial owner of legal entity or trust that is sole principal of income or who can demand or make withdrawals of assets
- ☐ Beneficial owner of legal entity or trust who can revoke trust or withdraw assets
- ☐ Signer of closing documents
- ☐ Full legal name, d/o/b, Residential Street Address, Citizenship, Tax ID (SSN) or Foreign Tax ID or Passport Number with Country

NOTE: This information is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice. We recommend you consult your legal counsel and subject-matter experts to determine appropriate policies, procedures and strategies applicable to your office or organization.

## Property Information

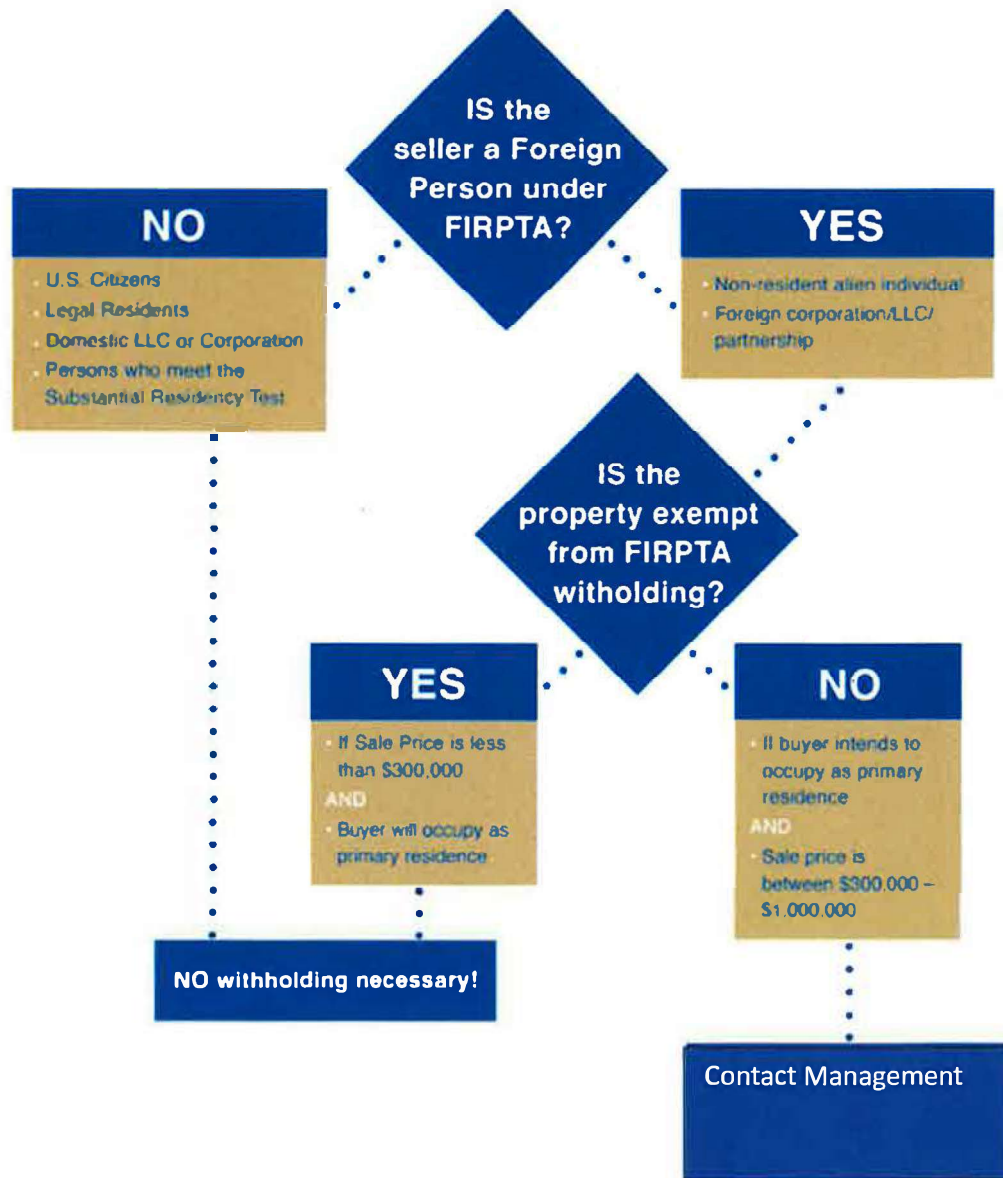
- ☐ Street Address
- ☐ Legal Description
- ☐ Date of Closing

## Reporting Person Information

- ☐ Full Legal Name
- ☐ Category of Reporting Person from Cascade
- ☐ Street Address of Reporting Person's Principal Place of Business (No P.O. Box)

NOTE: This information is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice. We recommend you consult your legal counsel and subject-matter experts to determine appropriate policies, procedures and strategies applicable to your office or organization.

## When does FIRPTA Apply?



## Things to know about FIRPTA:

- Seller's must have a Tax ID number prior to closing.
- 10 % withholding under \$1,000,000.00
- 15% withholding over \$1,000,000.00
- The buyer is responsible for paying the tax.
- Any questions should be directed to a CPA, we should not give advice.
- FIRPTA withholding only applies to Non-Alien residents, it does not apply to US citizens living abroad. (Non-Alien Residents have not passed a green card test or the substantial presence test)



**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT**  
**Is Withholding Required?**

1. Is the Seller a U.S. Citizen?
  - a. If Yes, FIRPTA withholding is not required.
  - b. If No, proceed to question 2.
2. Does the Seller pass the Substantial Presence Test?
  - a. If Yes, FIRPTA withholding is not required.
  - b. If No, proceed to question 3.
3. Will the property be the Buyer's primary residence?
  - a. If Yes, proceed to question 4.
  - b. If No, 15% of the purchase price must be withheld from the Seller's Proceeds and remitted to the IRS.
4. Is the sales price under \$300,000?
  - a. If Yes, FIRPTA withholding is not required.
  - b. If No, proceed to question 5.
5. Is sales price over \$1,000,000?
  - a. If Yes, 15% of the purchase price must be withheld from the Seller's Proceeds and remitted to the IRS.
  - b. If No, 10% of the purchase price must be withheld from the Seller's Proceeds and remitted to the IRS.

**SELLER SUBSTANTIAL PRESENCE TEST**

Seller passes the Substantial Presence Test if Seller is physically present in the United States on at least:

1. 31 days during the current year; AND
2. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting,
  - a. All of the days Seller was present in the current year, and
  - b. 1/3 of the days Seller was present in the first year before the current year, and
  - c. 1/6 of the days Seller was present in the second year before the current year.

**Example** – Seller was physically present in the United States on 150 days in each of the years 2021, 2022, and 2023. You would count the following days:

150 days from 2023 + 50 days from 2022 + 25 days from 2021 = 225 days

Seller passes the Substantial Presence Test.



## RESIDENTIAL CONSTRUCTION SALE CONTRACT

1. SELLER \_\_\_\_\_ SELLER \_\_\_\_\_

BUYER \_\_\_\_\_ BUYER \_\_\_\_\_

☐ ASP ☐ AMP ☐ \_\_\_\_\_ ☐ ASP ☐ AMP ☐ \_\_\_\_\_

Taking title as:

☐ Joint Tenancy ☐ Tenants in Common ☐ \_\_\_\_\_

2. **Real Estate.** In consideration of the mutual promises and covenants herein contained, and subject to the conditions herein set forth, Seller hereby sells, and Buyer hereby purchases the following described real estate (the "**Premises**"), upon which there is to be constructed or completed a dwelling unit (the "**Home**"):

SUBDIVISION: \_\_\_\_\_ PLAT NO: \_\_\_\_\_ LOT NO: \_\_\_\_\_

BLOCK NO: \_\_\_\_\_ COUNTY: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

Paragraph 3 Purchase price a. Earnest money. The issue is that money that is deposited directly with the seller does not spell out who the title company is that will be used. We need to state who will be the escrow agent and provide the title policy so we can do this within that paragraph or go to paragraph 11 and name the title company. Perhaps last sentence where it says buyer agrees to use \_\_\_\_ title company selected by seller unless otherwise state in Paragraph 38. (which is Paragraph 40 see that correction below as well.) This could be a fill in box.

3. **Purchase Price** \$ \_\_\_\_\_

a. **Earnest Money** \$ \_\_\_\_\_

- ☐ Held in trust account by \_\_\_\_\_, hereinafter referred to as Escrow Agent  
☐ Held by Seller (Funds held by Seller will NOT be held subject to the terms of paragraph 28.)  
☐ Earnest Money Attached  
☐ To be delivered to \_\_\_\_\_ no later than \_\_\_\_\_.

In the form of  
☐ Personal Check ☐ Cashier's Check ☐ \_\_\_\_\_.

b. **Earnest Money Transferred/Assigned to** \_\_\_\_\_  
from Lot Sale Contract or Lot Reservation Agreement dated \_\_\_\_\_ in the amount of \$ \_\_\_\_\_

c. **Non-Refundable Payment** to be paid directly to Seller on or before \_\_\_\_\_. \$ \_\_\_\_\_

d. **Other Deposits/Payments** as Defined in Attached Addendum, or Paragraph 40. \$ \_\_\_\_\_

e. **Balance to be Financed** \$ \_\_\_\_\_  
Type of loan:

- ☐ Conventional  
☐ FHA (loan amount does Not include MIP)  
☐ VA (loan amount does Not include Funding Fee)  
☐ Rural Development (loan amount does Not include Guarantee Fee)  
☐ \_\_\_\_\_



f. **Approximate Amount Due from Buyer** at time of Closing, excluding adjustments, \$ \_\_\_\_\_  
 prorations, primary and additional financing as set forth in attached financing addendum  
 Closing costs, and/or pre-paid expense, if any, said amount to be in the form of Certified  
 or Cashier's Check on the Closing Date:

4. **Commencement or Continuation of Construction.** Seller shall not be required to commence or, if already commenced, continue on-site construction of the Home until Buyer has satisfied or Buyer and Seller have mutually agreed to waive the Financing Conditions and the Contingency for the Sale of Buyer's Property, if any. PROVIDED, IF BUYER DESIRES CONSTRUCTION ON THE HOME TO COMMENCE OR, IF ALREADY COMMENCED, CONTINUED CONSTRUCTION PRIOR TO SATISFACTION OR WAIVER OF THE FINANCING CONDITION OR CONTINGENCY FOR THE SALE OF BUYER'S PROPERTY, IF ANY, THEN BY SIGNING THIS PARAGRAPH, BUYER AGREES THAT ALL EARNEST MONEY SHALL BE NON-REFUNDABLE, UNLESS PROHIBITED BY LAW, EVEN IF BUYER IS UNABLE TO OBTAIN THE LOAN DESCRIBED IN THE ATTACHED ADDENDUM OR UNABLE TO SELL BUYER'S EXISTING PROPERTY AS SPECIFIED IN THIS CONTRACT OR ATTACHED ADDENDUM, IF SELLER HAS PERFORMED UNDER THE TERMS AND CONDITIONS OF THIS CONTRACT.

\_\_\_\_\_  
 Company Name (Applies to this paragraph only)

\_\_\_\_\_  
 Signature of Buyer #1 (Applies to this paragraph only)

\_\_\_\_\_  
 Owner/Officer/Partner (Applies to this paragraph only)

\_\_\_\_\_  
 Signature of Buyer #2 (Applies to this paragraph only)

Paragraph 5 two boxes to check This is a Cash Sale or This is a financed sale then go into the lender name and rate etc. Buyer to show proof of funds on a cash sale could be added so that it triggers that being provided like a pre-approval is.

5. **Financing.** If money is being borrowed, then this contract is conditioned upon BUYERS obtaining a firm commitment, which must include (if required by Lender) a satisfactory appraisal, credit verification, income/assets verification, and PMI approval, for a new purchase money mortgage in the principal amount of no more than the above stated proceeds:

To be provided by (lender name) \_\_\_\_\_  
 by, on or before \_\_\_\_\_ (date)  
 at an initial rate not to exceed \_\_\_\_\_ %  
 points not to exceed \_\_\_\_\_ points  
 for a term of \_\_\_\_\_ years. Check if: ☐ Fixed, or ☐ Variable

BUYER'S lender may afford BUYER the option to "lock in" the foregoing interest rate or to "float" the interest rate. If BUYER locks in a rate, BUYER agrees to accept the "locked" rate and terms, even if different than those stated above. If BUYER has received a firm commitment from a lender on terms at or better than the terms stated above, and BUYER elects to float the rate, then BUYER agrees to accept the rate and terms available from BUYER'S lender for which BUYER qualifies at closing. BUYER may obtain a loan on different terms than those described above, provided that the terms of the loan do not result in additional costs to SELLER.

Buyer shall act diligently and in good faith to obtain a mortgage loan as set out in this Contract and shall make loan application within five (5) business days of the acceptance of this contract. BUYER may, at BUYER'S option, accept a firm loan commitment for less than the above-stated amount. Buyer agrees to accept any firm commitment which meets the terms set out in this paragraph and agrees to comply with all requirements of the commitment. BUYER shall furnish SELLER with a copy of the commitment promptly after BUYER receives it.

If BUYER is unable to obtain a commitment for the Loan(s) within the loan approval period; then, unless the parties agree to extend such date or BUYER delivers to SELLER a written waiver of this condition, BUYER or SELLER may CANCEL THIS CONTRACT by delivering written notice to the other of their intent to cancel in the form of a written contract cancellation

agreement and, upon execution of the agreement, this Contract shall be deemed null and void. If BUYER is unable to obtain the financing described herein, BUYER shall provide written evidence of rejection.

6. **Closing, Possession and Disbursement of Proceeds.** The "Closing Date" shall be \_\_\_\_\_, 20\_\_\_\_; or such earlier date after issuance of a certificate of occupancy or temporary certificate of occupancy as may be acceptable to both parties. "Closing" refers to the settlement of the transaction where the purchase price is paid to Seller, prorations are made and the deed is delivered to Buyer. Seller shall deliver possession and provide keys to Buyer immediately following payment of the purchase price to Seller and recording of the deed by Buyer. Buyer shall not occupy the Home or place property in or on the Premises prior to recording of the deed without the prior written consent of Seller

7. **Construction of Home.** Seller shall complete construction of the Home as indicated below. (Check applicable paragraph)

- ☐ The plans, specifications and drawings prepared by \_\_\_\_\_, number \_\_\_\_\_, last dated \_\_\_\_\_, which have been initialed by Seller and Buyer on each page thereof; or
- ☐ Substantially the same specifications, standards, and materials as for the model or existing residence located at \_\_\_\_\_ (excluding wallpaper, window treatments, decorative features, and furnishings) except as modified in separate specification and allowance addendum.
- ☐ Plans and drawings are not applicable (as Buyer is purchasing an existing or completed Home)

**The above referenced clause and specifications shall include, but not be limited to, all specification and allowance sheets which have been initialed by Seller and Buyer on each page thereof and all additions, substitutions plus revisions thereto which may be approved by both parties hereto as provided in this Contract.**

8. Agency Disclosure. (Applicable sections must be checked): Seller and Buyer acknowledge receiving the "Real Estate Brokerage Relationships" brochure prior to their execution of this Contract. Seller and Buyer acknowledge that the real estate licensees involved in this transaction may be functioning as Seller's agents, Buyer's agents, Designated Agents, or as Transaction Brokers. Pursuant to the following disclosure:

(Listing Company) \_\_\_\_\_ (Name of Licensee) \_\_\_\_\_  
is functioning as ☐ Seller's Agent ☐ Designated Seller's Agent ☐ Transaction Broker

(Selling Company) \_\_\_\_\_ (Name of Licensee) \_\_\_\_\_  
is functioning as ☐ Seller's Agent ☐ Designated Seller's Agent ☐ Seller's Sub Agent  
☐ Transaction Broker ☐ Designated Buyer's Agent ☐ Buyer's Agent

**Types of Brokerage Relationships:** A real estate licensee may work with a buyer or seller as a seller's agent, buyer's agent or transaction broker. The disclosure of the brokerage relationship between all licensees involved and the seller and buyer must be included in any contract for sale and in any lot reservation agreement.

**Seller's Agent:** The seller's agent represents the seller only, so the buyer may be either unrepresented or represented by another agent. In order to function as a seller's agent, the broker must enter into a written agreement to represent the seller. Under a seller agency agreement, all licensees at the brokerage are seller's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a seller's agent and the supervising broker of the designated agent functions as a transaction broker.

**Buyer's Agent:** The buyer's agent represents the buyer only, so the seller may be either unrepresented or represented by another agent. In order to function as a buyer's agent, the broker must enter into a written agreement to represent the buyer. Under a buyer agency agreement, all licensees at the brokerage are buyer's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a buyer's agent and the supervising broker of the designated agent functions as a transaction broker.

**A Transaction Broker** is not an agent for either party and does not advocate the interests of either party. A transaction brokerage agreement can be written or verbal.

**If applicable; Complete if Licensee IS representing SELLER or BUYER:**

- ☐ \_\_\_\_\_, Licensee assisting SELLER,
- ☐ DOES HAVE a financial interest in this transaction AS A SELLER.
- ☐ IS an immediate family member of a party that has a financial interest in this transaction as a SELLER.

Licensee ☐ *DOES* ☐ *DOES NOT* have a financial interest due to this relationship.

- ☐ \_\_\_\_\_, Licensee assisting BUYER,
- ☐ *DOES HAVE* a financial interest in this transaction *AS A* BUYER.
- ☐ *IS* an immediate family member of a party that has a financial interest in this transaction as a BUYER.
- Licensee ☐ *DOES* ☐ *DOES NOT* have a financial interest due to this relationship.

For purposes of the foregoing disclosures, "immediate family member" means spouse, parent, child or sibling. "Interest" is defined in K.S.A. 58-3035(i).

**Should we add Paragraph 12 from the LBOR Sales Contract – Buyer Brokerage Compensation?**

9. **Definitions.** The term "**Escrow Agent**" shall mean the escrow Closing agent selected by the parties, Buyer's lender or Broker. The term "**Non-Refundable**" when used in connection with a payment made or to be made by Buyer, unless otherwise expressly stated herein, shall mean that Buyer shall not be entitled to return of the payment under any circumstances, except if Seller fails to materially perform under the terms of this Contract.
10. **Deed.** Seller shall convey the Premises to Buyer by general warranty deed, free and clear of all liens and encumbrances, except as herein provided and as otherwise approved by Buyer. Purchase of the Premises is subject to any covenants, restrictions, declarations, zoning laws, easements, rights-of-way, building set-back lines, special assessments, community contracts, taxes and assessments due in the future, and other items referred to in this Contract or of record, not inconsistent with residential use. Buyer shall be responsible for the payment of all recording fees.
11. **Title Insurance.** Seller shall furnish Buyer marketable title, subject to liens, encumbrances, exceptions or qualifications specified in this Contract and those which shall be discharged by Seller at or before Closing. Seller agrees to provide Buyer or Buyer's representative with Title Insurance. Seller shall furnish Buyer, before Closing, a commitment for an owner's title insurance policy in the amount of the purchase price, insuring Buyer's title subject only to liens, encumbrances, exceptions, or qualifications set forth in this Contract, and those which shall be discharged by Seller at or before Closing. Buyer shall have five (5) days after receipt, to examine the title insurance commitment and to notify Seller in writing of any requirements to make the title marketable. Seller shall have until Closing to cause the title to be made marketable. If defects precluding marketability are not removed by Closing, Buyer may either accept title or cancel this Contract and obtain an immediate refund of Buyer's Earnest Money. Seller shall diligently attempt, before Closing, to correct any defects to marketability of which Buyer has notified Seller in writing. In case of dispute between the parties as to marketability of the title, the Title Standards adopted from time to time by the Bar Association of the State of Kansas, and the Kansas Marketable Title Act, as amended, shall control. The expense for the title commitment and owner's policy of title insurance described herein shall be paid \_\_\_\_\_% by Seller and \_\_\_\_\_% by Buyer (if blank, Seller and Buyer shall each pay one-half of the cost). Buyer agrees to use the title company selected by Seller for all applicable title services, unless otherwise stated in Paragraph 38 'Additional Terms and Provisions.'
12. **Declarations.** Buyer acknowledges and agrees that title to the Premises may be subject to certain declarations and restrictions of a Homeowners' Association or developer (the "**Declarations and Restrictions**"), which may provide that the right to make the final decisions on the placement of the Home on the Premises, approval of exterior paint/stucco colors of the Home, and use of certain building and roofing materials and other matters affecting construction may be reserved to the Homeowners' Association, Architectural Committee, and/or developer. Such Declarations and Restrictions shall not be a basis for objections to title.
13. **Prorations and Closing Costs.** The parties agree that all of the following (which become due and accrue during the calendar year in which Seller's deed is delivered) shall be prorated between the parties as of the Closing Date, and assumed and paid by Buyer thereafter (to the extent permitted by applicable law): interest on existing loans to be assumed by Buyer, all general and special real estate taxes and assessments, homeowners' association dues and fees, and any other contractual obligations of Seller to be assumed by Buyer. Escrow fees and Closing costs, if any, for this transaction shall be paid by Buyer. If the amount of any item to be prorated for the current year cannot be ascertained from the public record, the amount of the item for the preceding year will be used for the current year's amount. If the Premises has been reappraised within the preceding year and the actual taxes based on the new value are not available, they will agree to a reasonable estimation of the current year's taxes based on the information available on the Closing Date.

**FIRPTA Language?**

14. **Special Assessments.** Buyer acknowledges and agrees that the Premises may be subject to various special assessments for utility or sewer improvements, sidewalks, streets, and other city, county and other public improvements, including special benefit district

improvements. Seller and Buyer agree that they each have equal and similar access and opportunity to review all public records in relation to said special assessments. To the extent that Seller has actual knowledge of any special assessments affecting the Premises, Seller shall attach to this Contract a special assessment addendum. Buyer hereby releases Seller and waives any further disclosure obligations on the part of Seller with respect to special assessments or benefit improvement districts.

15. **Reassessment/Classification.** Buyer understands that the amount of taxes on the Premises may change as a result of changes in assessment or classification, and the parties agree that neither Seller nor the Broker, Escrow Agent, Closing Agent, or Buyer's lender shall be responsible for any adjustment or payment of the taxes to either Seller or Buyer as a result of any such reassessment or reclassification.
16. **Survey.** Buyer may (shall if required by lender), at Buyer's expense, obtain a survey of the Premises before the Closing to assure that there are no material encroachments, overlaps, boundary line or acreage disputes, or other such matters, that would be disclosed by a complete and accurate survey. The parties agree that the results of such survey may be the basis for a timely objection to the title to the Premises. Buyer acknowledges that the mortgage inspection report typically required by a lending institution is not a complete survey or what is commonly referred to as a "stake" survey.
17. **Termite Inspection.** If Buyer's lender requires a termite inspection report, Buyer shall be solely responsible for arranging and paying for said inspection and for delivery of the report to Buyer's lender prior to Closing, unless Buyer is prohibited by law to pay such expense, in which event the reasonable cost thereof shall be paid by Seller. The inspection will be performed by a licensed exterminator to determine whether there is any evidence of active infestation. Should evidence of active infestation be found, Buyer shall notify Seller within **three (3)** days after inspection. The notification shall contain an estimate of the costs of any treatment and/or repairs required to remedy such infestation and/or damage, which costs shall be paid by \_\_\_\_\_. Buyer may request the use of a particular chemical application, and Buyer shall pay any additional costs for such application. If Seller chooses not to remedy infestation and/or damage, Buyer shall have the right to cancel this contract and have Buyer's Earnest Money refunded, or Buyer may elect to Close without having such infestation and/or damage remedied. Any notice of cancellation shall be given by Buyer to Seller, or the listing licensee, within **five (5)** days following Seller's notice to Buyer that Seller will not remedy such infestation and/or damage. In the event that Buyer's lender shall specify particular treatment methods for the protection of new construction (e.g., chemical soil treatment, pressure treated wood, naturally resistant wood, physical barriers, metal or plastic termite shields, bait system, etc.), and the Premises does not satisfy the lender's requirements, then the cost of any such application/treatment method shall be at the Buyer's expense.

Should we insert a new Paragraph, copied from Paragraph 7 of the LBOR Sales Contract – Inspections.

18. **Delays, Extension of Closing.** If completion of construction is delayed due to weather, strikes, acts of God, Buyer delays, unavoidable casualties, labor disputes, fire, transportation, material delivery or unavailability, acts of war, emergency, terrorism, governmental preemption, disease, pandemic, by reason of any rule, order or regulation of any government agency, department or subdivision thereof, or other causes beyond the control of Seller (collectively, "**Force Majeure**"), regardless of any other provision of this Contract, Closing and possession shall be extended for that period of time caused by any such delay in construction. Upon request, Seller shall provide written notice to Buyer identifying length of time and cause of delay. With notice, Buyer assumes responsibility of notifying lender of any such delay. Normal scheduling of sub-contractors and employees is a responsibility of Seller. Under no circumstances shall the non-payment of money by either party or a failure attributable to a lack of funds on the part of either party be deemed to be (or to have caused) an event of Force Majeure.
19. **Plans and Change Orders.** It is agreed and understood that any changes and/or alterations of plans, after start of construction, must be agreed upon through written change orders signed by Buyer and Seller, and, if required by Seller, shall be paid for by Buyer at time of request and such payment shall be Non-Refundable.
20. **Allowances: Adjustments/Overages.** It is understood and agreed that in the event Buyer exceeds Seller's allowances, the overage shall be paid directly to Seller or supplier at the time of selection by Buyer and shall be Non-Refundable. In the event that Buyer's selections are less than Seller's allowances, Buyer may apply the difference to another allowance or receive credit at Closing, if permitted by Buyer's lender. It is understood by Buyer that any landscaping allowance may not be credited to another allowance, and that landscaping must be installed if part of the Specifications. Available allowances are as shown on the attached Plans and Specifications.
21. **Contractor's Employees.** Seller shall be responsible for the acts and omissions of all of its employees and all subcontractors, their agents and employees and all other persons performing any work under a contract with Seller, but only to the extent that such acts and omissions are within the scope of the construction of the Home. Buyer shall not communicate directly with Seller's

employees or subcontractors, and all communications with respect to construction of the Home shall be made by Buyer to and through Seller.

22. **Placement of Improvements.** After consultation with Buyer, Seller reserves the right to make the final decision of placement of the Home on the Premises, elevation at grade, the height of the driveway, and the number of steps to the Home and garage entries and from the driveway to the front stoop.
23. **Materials.** Materials selected by Buyer for the Home (including allowance items) must be obtained from Seller's existing supplier(s), be available for immediate installation, and be installed by Seller, or his employees, agents, contractors, or subcontractors. Any deviations must be mutually approved by Buyer and Seller through written change orders. Buyer will make selections, in writing on Seller's form, of any optional color, style or material offered by Seller and at the time and place designated by Seller. If Buyer fails to make all required selections within ten (10) days after Seller's request therefore, Seller may make selections consistent with the plans and specifications.
24. **Radon.** Every Buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen, is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires Sellers to disclose any information known to the Seller that shows elevated concentrations of radon gas in residential real property. The Kansas department of health and environment recommends all homebuyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can be easily reduced by a radon mitigation technician. For additional information go to [www.kansasradonprogram.org](http://www.kansasradonprogram.org).
- Seller, developer and/or broker(s), their agents and employees make no representation or warranty as to the presence or lack of radon, or as to the effect of radon or any such condition on the Premises or occupants. Buyer may, at Buyer's expense, conduct an inspection to determine the presence of radon gas on the Premises. ANY REMEDIATION OF RADON REQUIRED SHALL BE AT \_\_\_\_\_ SOLE EXPENSE.
25. **Escrow of Incomplete Items.** Any incomplete items (excluding any warranty, orientation tour items or remedial items) required by Buyer's lender to be completed prior to Closing shall be listed along with their respective costs, as determined by Seller, and deducted from Seller's proceeds and held in escrow (along with any other amounts required to be held in escrow in excess of the allowance). Escrow funds for each completed item listed shall be released to Seller in accordance with the term of the escrow agreement. Buyer and Seller agree to execute an escrow agreement at Closing in a form satisfactory to Seller, Buyer, Lender and the Escrow Agent. In the event an escrow is required as a result of Buyer's request for delay in the installation of landscaping, sod, sprinkler system, fencing or other exterior amenities, Buyer agrees that any amounts required to be held in escrow in excess of the allowances provided in this Contract shall be deposited by Buyer, and that any inspection or re-inspection fees for said items shall be paid by Buyer. In the event an escrow is required as a result of Seller's request for delay, any inspection or re-inspection fees shall be paid by Seller.
26. **Insurance and Casualty Loss.** Seller shall maintain builder's risk property insurance respecting the Premises through the Closing Date in an amount equal to the full insurable value thereof and shall maintain liability insurance and such other insurance coverages (including worker's compensation coverage) as Seller may deem necessary or appropriate or as may be required by law, subject to such deductible amounts as Seller shall determine reasonable. If Buyer directly engages another contractor or a subcontractor to perform additional work on the Premises (which shall always require Seller's consent), Buyer shall cause such other party to provide Seller with written evidence of satisfactory worker's compensation and liability insurance coverage prior to such other party performing work on the Premises. In the event of damage or destruction to the Premises prior to Closing, this Contract shall remain in full force and effect and Seller shall proceed to reconstruct, repair, and complete the Home as soon as reasonably possible and the Closing Date shall be delayed accordingly provided repairs shall not extend the Closing Date more than sixty (60) days. If Closing is extended more than sixty (60) days, Buyer may terminate this Contract and all Earnest Money and monies paid directly to Seller shall be returned to Buyer, except as otherwise provided in this Contract, and this Contract shall be null and void. Notwithstanding the foregoing, if the damage or destruction is due to any act or omission of Buyer or Buyer's other contractors, Buyer shall have no right to terminate this Contract, but Seller shall have the right to terminate this Contract, in which event Seller shall also be entitled to retain the Earnest Money and all deposits previously paid to Seller.
27. **Utilities.** Seller agrees to leave on any utilities which have been turned on until the Closing Date, unless otherwise specifically stated in this Contract, and Buyer shall assume responsibility for all such utilities following the Closing Date.
28. **Earnest Monies and Additional Deposits.** Upon acceptance of this Contract, unless otherwise agreed, the Earnest Money shall be deposited within five (5) business days of the Effective Date, in an insured escrow account maintained by Listing Broker or

Escrow Agent. Any additional deposits shall be deposited within five (5) business days of receipt by Listing Broker or Escrow Agent. Buyer and Seller agree that the party entitled to receive the Earnest Money shall also be entitled to any interest earned thereon. If this Contract is canceled by the parties or if the Earnest Money is to be forfeited or refunded, the parties agree that the amount to be distributed shall first be reduced by any unpaid charges for credit reports, appraisals, surveys, termite, mechanical and other inspections, and title investigation fees, if any, incurred by Listing Broker or Escrow Agent on behalf of the party receiving the Earnest Money. Notwithstanding any other terms of this Contract providing for the forfeiture or refund of Earnest Money, the parties understand that neither the Listing Broker nor the Escrow Agent will distribute the Earnest Money without the written consent of all parties to this Contract unless permitted to do so by applicable state laws. If Buyer and Seller are unable to agree in writing upon the disposition of the Earnest Money or any other funds, Listing Broker or Escrow Agent may commence an interpleader or similar proceeding, and Buyer and Seller authorize Listing Broker or Escrow Agent to pay all funds to the Clerk of the District Court (in the county where the Premises is located) for disposition as the Court may direct. Buyer and Seller agree that Listing Broker or Escrow Agent shall be entitled to reimbursement of its costs incurred in connection with the interpleader or similar proceeding including without limitation, reasonable attorneys' fees and expenses. Buyer and Seller agree that, in the absence of a dispute or written consent to distribution, the failure by either to respond in writing to a certified letter from Listing Broker or Escrow Agent within seven (7) days of receipt thereof, or failure to make written demand for return or forfeiture of the Earnest Money within thirty (30) days of notice of cancellation of this Contract, shall constitute consent to distribution of the Earnest Money as suggested in such certified letter. Buyer acknowledges and agrees that Broker will retain in its trust account that portion of the Earnest Money deposit which may be payable to Broker upon the Closing of this transaction. Any Earnest Money in excess of the amounts due to Broker will be forwarded by Broker to the Closing agent prior to Closing. The time periods described in this paragraph may be extended by mutual consent signed by all of the parties hereto, or as may be required by applicable state law.

29. **Funds Deposited with Seller.** Buyer acknowledges that Broker shall have no responsibility or liability to Buyer for any funds or deposits made by Buyer to anyone other than Broker, including, without limitation, any payments made directly to Seller.
30. **Representations.** It is acknowledged that Broker and any Escrow Agent, are acting agents only and are not responsible to either party for the performance of any term or condition of this Contract or for damages for non-performance thereof. Buyer acknowledges that the display homes, including, without limitation, the furnishings, appliances, finish, landscaping, and other items therein are for display purposes only and are not included in this Contract, unless expressly provided to the contrary. The developer of the subdivision in which the Premises is located is not a party to this Contract and shall not be responsible or liable for the performance or non-performance hereof. The rule of law that a document is to be construed against the drafting party shall have no application to the interpretation of this Contract, and the language in all parts of this Contract shall be construed in accordance with its fair meaning and not strictly for or against any of the parties hereto.
31. **Assignment, Consent, Amendment, Interpretation.** This Contract may not be assigned by either Seller or Buyer without the prior written consent of the other. Whenever this Contract requires the consent of the other party hereto, such other party agrees not to unreasonably withhold or delay such consent, except with regard to Buyer's assignment of this Contract, which shall be in Seller's sole discretion. If Buyer consists of more than one person (i) each Buyer shall have the authority to act for and bind all Buyers with respect to any additions, amendments, substitutions, revisions and change orders, and (ii) the duties, liabilities and obligations of Buyer hereunder shall be joint and several with each Buyer undertaking full responsibility for compliance with the terms and provisions of this Contract. Wherever used, singular shall include the plural, plural the singular, and use of any gender shall include all genders. This Contract shall be binding on and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors, and permitted assigns. This Contract shall be constructed, governed, and enforced pursuant to the laws of the State of Kansas. The rule of law that a document is to be construed against the drafting party shall have no application to the interpretation of this Contract, as the parties acknowledge that this Contract is a result of negotiations between the parties and the consultation with counsel. Except as expressly provided herein to the contrary, this Contract may not be amended, supplemented, or terminated, in whole or in part, except by written instrument signed by both parties. All rights privileges and remedies afforded the parties by this Contract shall be deemed cumulative and the exercise of one of such remedies shall not be deemed to be a waiver of any other right, remedy or privilege provided for herein. If any provisions of this Contract or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.
32. **Notices.** Any notice or other communication required or permitted hereunder may be delivered in person, or by certified mail, facsimile or electronic mail to the address set forth in this Contract, the last known address for the respective party, or such other address as shall be furnished in writing by any such party. Such notice or communication shall be deemed to have been given as of the date and time so delivered in person, or received by certified mail, facsimile or by electronic mail. Delivery to or receipt by the individual salesperson named in this Contract and representing a party's real estate brokerage agency shall constitute receipt by the party.

33. **Defaults and Remedies.** Seller or Buyer shall be in default under this Contract, if either fails to materially comply with any covenant, agreement, or obligation within the time limits required by this Contract. Following a default by either Seller or Buyer under this Contract, the other party shall have the following remedies, subject to the provisions of paragraph 28 of this Contract:

- a. If Seller defaults, Buyer may either (i) specifically enforce this Contract; or (ii) terminate this Contract by written notice to Seller and, at Buyer's option, pursue any remedy and damages available at law or in equity. If Buyer elects to terminate this Contract, the Earnest Money shall be returned to Buyer unless otherwise provided in this Contract.
- b. If Buyer defaults, Seller may either (i) specifically enforce this Contract; or (ii) terminate this Contract by written notice to Buyer and, at Seller's option, either retain the Earnest Money as liquidated damages as Seller's sole remedy (the parties

recognizing that it would be extremely difficult to ascertain the extent of actual damages caused by Buyer's breach, and that the Earnest Money represents as fair an approximation of such actual damages as the parties can now determine) or pursue any other remedy and damages available at law or in equity. If as a result of Buyer's default, Seller employs an attorney to enforce its rights, Buyer shall, unless prohibited by law, reimburse Seller for all reasonable attorneys' fees, court costs and other legal expenses incurred by Seller in connection with the default.

34. **Subsurface Conditions.** It is understood that this paragraph refers to subsurface conditions not visibly apparent and would not be part of normal site preparation and excavation. It is recommended that Buyer obtain any tests pertaining to subsurface conditions to further reduce the likelihood of unexpected expenses. Buyer shall pay the cost of all such inspections. The purchase price herein stated is predicated upon no rock or shale being encountered while excavating or ditching, or any condition below the surface of the ground presenting problems due to the presence of springs or other water streams, or unexpected utility or sewer elevations, unstable soil or fill material, or any substantial movement of earth to or from the Premises, or any adverse environmental conditions. In the event that any such conditions are encountered, Seller agrees to notify Buyer of said conditions prior to correcting said conditions, and Buyer shall either pay to Seller the additional out of pocket costs in connection therewith or make other arrangements to remedy or abate such conditions at Buyer's expense.

35. **Homeowners' Association Dues.** Buyer acknowledges that the Premises may be subject to Homeowners' Association dues, which may be subject to adjustment at the sole discretion of the Homeowners' Association (as provided for in the Homeowners' Association Declaration.)

36. **Kansas Notice of Defect/Right to Cure Act.** Kansas law contains important requirements you must follow before you may file a lawsuit for defective construction against the contractor who constructed your home. Ninety days before you file your lawsuit, you must deliver to the contractor a written notice of any construction conditions you allege are defective and provide your contractor the opportunity to make an offer to repair or pay for the defects. You are not obligated to accept any offer made by the contractor. There are strict deadlines and procedures under state law, and failure to follow them may affect your ability to file a lawsuit.

37. **Crime Registry.** Kansas law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If you, as the Buyer, desire information regarding those registrants, you may find information on the homepage of the Kansas Bureau of Investigation (KBI) at <http://Kansas.gov/kbi> or by contacting the local Sheriff's Office. Seller makes no representation regarding the accuracy of the registrations, or that the public will have access to this information. Neither Seller nor any real estate broker or agent is required to obtain or provide to you any additional information regarding such registrations.

FinCEN?

38. **Electronic Signatures; Counterparts.** For purposes of this Contract and any addenda, attachments or amendments to this Contract, the parties agree to accept email, facsimile and other electronic signatures and initials as originals. This Contract may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

Paragraph 39 - Remove conventional financing addendum, agency disclosure addendum and add a few additional fill in the blank spots.

39. **Addenda.** This Contract, together with the Addenda listed below and attached hereto, constitute the entire agreement between the parties hereto and supersedes all prior agreements, if any, oral or written, between the parties hereto, with regard to the subject Premises described above.



**Addenda/Contingencies.** The following Addenda are attached or have been provided to Buyer and are a part of this Contract (Check All Applicable Addenda):

- |   |  |
|---|--|
| <input type="checkbox"/> Plans and Specifications and/or exhibits             | <input type="checkbox"/> Conventional Financing Addendum       |
| <input type="checkbox"/> Covenants/Restrictions                               | <input type="checkbox"/> FHA/VA Financing Addendum             |
| <input type="checkbox"/> Homeowners' Association Declarations                 | <input type="checkbox"/> Legal Description/Disclosure Addendum |
| <input type="checkbox"/> Contingency for Sale of Buyer's Property             | <input type="checkbox"/> Agency Disclosure Addendum            |
| <input type="checkbox"/> <u>Warranty Addendum &amp; Performance Standards</u> | <input type="checkbox"/> Kansas Energy Efficiency Disclosure   |
| <input type="checkbox"/> Franchise Agreement                                  | <input type="checkbox"/> Special Assessment Addendum           |
| <input type="checkbox"/> Other: _____   |  |

**Paragraph 40 - Expand the additional terms and conditions section –**

**40. Additional Terms and Conditions.**

41. **New Home Orientation/Walk-Through.** Seller or Seller's representative and Buyer shall do an orientation tour of the Premises prior to Closing. Agreed upon items from this tour shall be completed by Seller within \_\_\_\_\_ days (thirty [30] days if left blank) following the Closing Date, weather permitting, and with scheduling cooperation from Buyer.

Add paragraph to the LHBA contract Release and indemnification like KC contract Paragraph 24- releases the seller from any liability due to injury, ect from the buyer visiting the construction site. It would be good if it could state that there are times that it is not safe or appropriate ie wet floors that cannot be walked on or concrete pours/ open stairwells...so the buyer needs to schedule visits and be accompanied so that would be good to have added. The Kansas City paragraph they use is 24 but I think most builders still want to schedule the visits and control the times that folks come on the property so they can safeguard as much as possible. I have attached a copy of the contract with that paragraph.

*24. RELEASE AND INDEMNIFICATION. BUYER understands that the Lot will be a construction site and it will be dangerous for BUYER and guests to be at the site. BUYER may visit and inspect the work during its progress but must not interfere with the work being conducted or place themselves at risk of injury.*

*BUYER hereby releases and agrees to indemnify and hold SELLER, all Licensees and their employees harmless from and against any and all liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising from any actual or claimed bodily or property damage or injury of whatever kind or character (including death) suffered or sustained by BUYER or by any of his agents, servants, employees or guests (including children) in connection with any labor performed by BUYER or by any of his agents, servants, employees or guests (including children) in the construction of the Residence or during any time that any of the foregoing may be present on the Property during construction.*

Add paragraph 29 to the LHBA contract from the Kansas City contract titled Inspections - addresses inspections and the that the contract is not subject to a satisfactory report but subject to acceptable corrections to meet local building code requirements. I think it would also be a good idea to have some sort of inspection notice/unacceptable deficiencies form to go with this. I also think it needs to state that the items are not a deficiency if they are within the building performance standards nor are they

insignificant cosmetic items as we use natural woods and materials that by their nature may have some knot holes or characteristics of the product that are performing well just may not look like a personal preference to some if you get my drift.

*29. INSPECTIONS. BUYER may, at BUYER'S expense, have an independent, qualified inspector(s) conduct inspections on the Property. Any and all inspections must be completed at least five (5) calendar days before Closing and written reports delivered to SELLER prior to final walk through.*

*The BUYER and SELLER agree that this Contract is not subject to an initially satisfactory report, but is subject to the SELLER performing acceptable corrections as required by the report to meet applicable local residential building code requirements. Any*



*deficiencies indicated must be accompanied by a report by a qualified inspector stating such deficiencies as well as recommended remedial action.*

**WHEN SIGNED BY ALL PARTIES, THIS IS A LEGALLY BINDING CONTRACT. ANY AMENDMENT TO THIS LHBA/LBOR APPROVED CONTRACT MUST BE EITHER HAND-WRITTEN AND INITIALED, OR EXPRESSED IN A WRITTEN ADDENDUM ATTACHED TO THIS CONTRACT. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY BEFORE SIGNING.**

**SELLER**

**BUYER**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Buyer #1 Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
By: Owner/Officer/Partner Name - Title (printed)

\_\_\_\_\_  
Buyer #2 Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Buyer #3 Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Buyer #4 Signature

\_\_\_\_\_  
Date

**Optional Contact Information**

\_\_\_\_\_  
Listing Company

\_\_\_\_\_  
Selling Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Listing Licensee (Please Print)

\_\_\_\_\_  
Selling Licensee (Please Print)

\_\_\_\_\_  
Listing Licensee's Phone #

\_\_\_\_\_  
Listing Company Phone #

\_\_\_\_\_  
Selling Licensee's Phone #

\_\_\_\_\_  
Selling Company Phone #

\_\_\_\_\_  
Listing Licensee's Email Address

\_\_\_\_\_  
Selling Licensee's Email Address