

NEW RESIDENTIAL CONSTRUCTION REAL ESTATE SALE AGREEMENT

FINAL AGENCY ACKNOWLEDGMENT

Both Buyer and Seller acknowledge having received the Oregon Real Estate Agency Initial Agency Disclosure Pamphlet, and hereby acknowledge and consent to the following agency relationships in this transaction.

Buyer's Agent(s) Information:

Buyer's Agent 1*: _____ Oregon License #: _____
is the agent of: (select one) Buyer exclusively ("Buyer Agency") Both Buyer and Seller ("Disclosed Limited Agency")

Name of Real Estate Firm*: _____ Firm License #: _____

Buyer's Agent 1's Office Address: _____

Phone #1: _____ Phone #2: _____ E-mail: _____

Buyer's Agent 2*: _____ Oregon License #: _____
is the agent of: (select one) Buyer exclusively ("Buyer Agency") Both Buyer and Seller ("Disclosed Limited Agency")

Name of Real Estate Firm*: _____ Firm License #: _____

Buyer's Agent 2's Office Address: _____

Phone #1: _____ Phone #2: _____ E-mail: _____

Seller's Agent(s) Information:

Seller's Agent 1*: _____ Oregon License #: _____
is the agent of: (select one) Seller exclusively ("Seller Agency") Both Buyer and Seller ("Disclosed Limited Agency")

Name of Real Estate Firm*: _____ Firm License #: _____

Seller's Agent 1's Office Address: _____

Phone #1: _____ Phone #2: _____ E-mail: _____

Seller's Agent 2*: _____ Oregon License #: _____
is the agent of: (select one) Seller exclusively ("Seller Agency") Both Buyer and Seller ("Disclosed Limited Agency")

Name of Real Estate Firm*: _____ Firm License #: _____

Seller's Agent 2's Office Address: _____

Phone #1: _____ Phone #2: _____ E-mail: _____

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***If Buyer's and/or Seller's Agents and/or Firms are co-selling or co-listing in this transaction, all Agents and Firm names should be disclosed above or in an attached OREF 010 – Final Agency Acknowledgment Addendum.**

If both Parties are each represented by one or more Agents in the same Real Estate Firm, and Agents are supervised by the same principal broker in that Real Estate Firm, Buyer and Seller acknowledge the principal broker will become the disclosed limited agent for both Buyer and Seller as more fully explained in the Disclosed Limited Agency Agreements that have been reviewed and signed by Buyer, Seller, and Agent(s).

Buyer will sign this acknowledgment at the time of signing this Agreement before submission to Seller. Seller will sign this acknowledgment at the time this Agreement is first submitted to Seller, even if this Agreement will be rejected or a counteroffer will be made. Seller's signature to this Final Agency Acknowledgment will not constitute acceptance of this Agreement or any terms in this Agreement.

Buyer _____ Print _____ Date _____ ←

Buyer _____ Print _____ Date _____ ←

Seller _____ Print _____ Date _____ ←

Seller _____ Print _____ Date _____ ←

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SALE AGREEMENT GENERAL TERMS

This Agreement is intended to be a legal and binding contract. If it is not understood, seek competent legal advice before signing. For an explanation of the capitalized terms and the legal concepts applicable to this Agreement, review Section 52 (Definitions) and Section 53 (Miscellaneous). No changes or alterations are permitted to any portion of the pre-printed format or text of this form. Any such proposed changes or alterations must be made on a separate document.

1. PARTIES/PROPERTY DESCRIPTION/PRICE: Buyer (*insert name[s]*)

_____ offers to purchase from Seller (*insert name[s]*) _____

the following described real property (the "Property") situated in the State of Oregon, County of _____, and commonly known or identified as: (*complete one or more*)

(a) Street Address: _____; and
(*If the above address does not adequately describe the Property, include the Tax Identification Number and/or other identifying information.*)

(b) Tax Identification Number(s): _____; and

(c) Other Identifying Information (lot/block number, etc.): _____

If a complete legal description of the Property is not included in this Agreement, Buyer and Seller will use the legal description provided by Escrow, defined in Section 35 (Escrow), for purposes of legal identification and conveyance of title.

Buyer offers to purchase the Property for the "Purchase Price" (in U.S. currency) of A \$ _____ on the following terms:
as earnest money, the sum of (the "Deposit") B \$ _____

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in accordance with Section 35.2 (Additional Deposit), the sum of (the "Additional Deposit").....C \$ _____
at or before Closing, the balance of the down payment

.....D \$ _____
at Closing and on Delivery of the deed contract, the balance of the Purchase Price..... E \$ _____

will be paid as agreed to in the Financing Sections of this Agreement.

(the sum of Lines B, C, D, and E should equal Line A)

2. ATTACHED ITEMS AND PERSONAL PROPERTY: Items identified as included or excluded in the Multiple Listing Service or marketing materials will not be included in or excluded from the sale unless agreed to in writing.

2.1. Attached Items. Listed below are examples of attached items.

(a) **Fixtures.** A fixture is any personal property that is attached to real property. Fixtures include built-in appliances, floor coverings, blinds, curtain rods, lighting and bulbs, awnings, window and door screens, and storm doors and windows.

(b) **System components.** A system component is essential related equipment. System components include irrigation, plumbing, water heaters, ventilation, cooling and heating, Smart Home Features, and all fixtures and their related items, including remote controls, operating manuals, passwords, and all keys related to the property including mailbox and outbuilding(s).

(c) **Other attached items.** Other attached items include fences, gates, and planted landscaping items.

All attached items are included except: *(describe)* _____
_____. For additional excluded items, see Addendum _____.

All mounting brackets *(select one)* will will not remain with the Property
except for *(describe)* _____
_____.

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All bathroom mirrors (*select one*) will will not remain with the Property except for (*describe*) _____

2.2. Personal Property. Personal property refers to objects not permanently attached to the Property. This includes but is not limited to free-standing furniture (which may be secured for safety reasons by anti-tip devices), free-standing appliances (like slide-in refrigerators and ranges), and hanging items (such as artwork, decorative items, and other portable items). Only the following personal property, which is offered "AS-IS" and without any stated value, is included in the sale: (*describe*) _____

_____. For additional personal property, see Addendum _____.

FINANCING

3. BUYER REPRESENTATION OF FUNDS: In this section: (a) "Funds" means the funds required for Closing of the Property, whether they are the Deposits, down payment, or (if this is an all-cash transaction) the full Purchase Price, but "Funds" does not include the financing described in Sections 6 (Financed) or 7 (Seller-Carried Financing) in this Agreement; and (b) "Liquid" means Funds that are cash or immediately convertible to cash that are available to Buyer. Buyer represents that, upon signing this Agreement: (*select only one*)

- (i) all Funds are Liquid;
- (ii) Not all Funds are Liquid; however, all Funds will be Liquid before Closing. This transaction is not contingent upon Buyer obtaining the following non-contingent Funds before Closing (for example 401K Disbursements): (*identify source of non-liquid Funds*) _____; or
- (iii) This transaction is contingent upon Buyer obtaining Liquid Funds in accordance with the following contingency: (*describe*) _____

For additional contingency details, see Addendum _____.

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4. SELLER CONTRIBUTIONS: Seller will pay the following amount(s) at Closing: *(select all that apply)*

(a) **Buyer's Agent's Compensation.** Compensation to Buyer's Agent's Firm in the amount of *(select and complete one)* \$ _____ or _____% of the Purchase Price. Except as expressly provided in this Agreement or other written agreements, payment of compensation does not modify any obligation to pay compensation to a real estate agent, or modify or create any agency relationships between any parties. Buyer's Agent's Firm is intended to be a third-party beneficiary of this section.

(b) **Closing Costs.** *(select and complete one)* \$ _____ or _____% of the Purchase Price for Buyer's appraisal and inspection fees, recording fees, loan origination fees, mortgage interest, interest rate buydown, and discount points, title and escrow costs, HOA fees, and assessments, homeowner and mortgage insurance, down payment assistance programs, Buyer's portion of property taxes, transfer taxes and other closing costs, and prepaid expenses.

(c) **Other.** *(describe)* _____
_____.

After the Effective Date the parties will document any changes to the terms of this section using OREF 048 – Seller Contributions Addendum.

Buyer and Seller are advised to review OREF 047 – Advisory Regarding Real Estate Compensation for information about how real estate compensation works and the choices available when hiring a real estate agent.

If the transaction is an all-cash transaction, select and complete section 5. If the transaction is financed, select and complete sections 6 – 6.3. If this is a Seller-Carried Transaction, select and complete section 7.

5. ALL-CASH: This is an all-cash transaction. Buyer will provide verification (“Verification”) of readily available funds as follows: *(select one)*

(a) Buyer has attached the Verification to this Agreement;

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- (b) Buyer will provide Seller with the Verification within _____ Business Days (three [3] if not filled in) after the Effective Date; or
- (c) Other: (describe) _____.

If the Verification is not attached to this Agreement, Seller may Notify Buyer, in writing, of Seller's unconditional disapproval of the Verification within _____ Business Days (two [2] if not filled in) ("Disapproval Period") following its receipt by Seller. Provided, however, such disapproval must be objectively reasonable. On such disapproval, all Deposits will be promptly refunded to Buyer and this transaction will be terminated.

If Seller fails to provide Buyer with written unconditional disapproval of the Verification by 5:00 p.m. on the last day of the Disapproval Period, Seller will be deemed to have approved the Verification. If Buyer fails to submit a Verification within a time frame selected above, unless the Parties agree otherwise in writing, all Deposits will be promptly refunded, and this transaction will be terminated.

6. **FINANCED:** The balance of the Purchase Price will be financed through one of the following loan programs: (select only one)

- (a) Conventional;
- (b) FHA;
- (c) Federal VA. Seller (select one) will will not agree to pay Buyer's non-allowable VA fees.
If FHA or Federal VA is selected, Buyer has attached OREF 097 – VA/FHA Amendatory Clause and Real Estate Certification to this Agreement;
- (d) Other: (describe) _____.

Buyer will seek financing through a lending institution or mortgage broker (collectively, "Lender") participating in the loan program selected above.

Pre-Approval Letter. (select one)

- (i) Buyer has attached a pre-approval letter from Buyer's Lender (a "Pre-approval Letter") to this Agreement;

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- (ii) Buyer will provide Seller with the Pre-approval Letter within _____ Business Days (three [3] if not filled in) after the Effective Date;
- (iii) Other: (*describe*) _____

Seller is aware they are accepting an offer contingent upon financing and appraisal. If Buyer's Lender requires an appraisal reinspection due to Seller's breach of this Agreement, Seller will promptly reimburse Buyer for any appraisal reinspection fee Buyer incurs.

6.1. Financing Contingencies. If Buyer is financing any portion of the Purchase Price (the "Loan"), then this transaction is subject to the following contingencies (the "Financing Contingencies"):

- (a) Buyer and the Property will qualify for the Loan from Lender;
- (b) Lender's appraisal will not be less than the Purchase Price;
- (c) Buyer obtains the Loan from Lender, unless failure to obtain the Loan is due to the fault of Buyer; and
- (d) Other: (*describe*) _____

Except as provided in this Agreement, all Financing Contingencies are solely for Buyer's benefit and may be waived by Buyer in writing at any time.

6.2. Failure of Financing Contingencies. If Buyer receives actual notification from Lender that any Financing Contingencies have failed or otherwise cannot occur, Buyer will promptly Notify Seller, and the Parties will have _____ Business Days (two [2] if not filled in) following the date of Buyer's Notice to Seller to either:

- (a) terminate this transaction by signing an OREF 057 – Termination Agreement and terminate escrow by signing a similar agreement if required by Escrow; or
- (b) reach a written agreement on price and terms that will permit this transaction to continue.

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Seller and Buyer are not required under the preceding provision (b) to reach an agreement. If (a) or (b) fail to occur within the time period identified in this section, this transaction will be automatically terminated, and all Deposits will be promptly refunded to Buyer. Buyer understands that on termination of this transaction, Seller will have the right to place the Property back on the market for sale at any price and terms as Seller determines, at Seller's sole discretion.

6.3. Buyer's Obligations Regarding Financing. Buyer represents to and agrees with Seller as follows:

(a) Not later than ___ Business Days (three [3] if not filled in) following the Effective Date, Buyer will submit to the Lender who provided the Pre-approval Letter a completed loan application for purchase of the Property. A "completed loan application" will include the following information: (i) Buyer's name(s); (ii) Buyer's income(s); (iii) Buyer's social security number(s); (iv) the Property address; (v) an estimate of the value of the Property; and (vi) the loan amount sought.

(b) If Buyer is satisfied with the Loan Estimate offered by Buyer's Lender, Buyer will notify Lender within ___ Business Days (three [3] if not filled in – but not to exceed ten [10]) following Buyer's receipt of Lender's Loan Estimate. At Seller's request, Buyer will promptly Notify Seller of the date of Buyer's signed notice of intent to proceed with the Loan.

(c) After Buyer notifies Lender of Buyer's intent to proceed with the Loan, Buyer will complete all paperwork requested by the Lender, including payment of all application, appraisal, and processing fees, to obtain the Loan.

(d) Buyer will not replace the Lender or loan program selected in Section 6 (Financed). without Seller's written consent, which may be withheld at Seller's sole discretion.

(e) Following submission of Buyer's loan application, Buyer will keep Seller promptly informed of all material non-confidential developments regarding Buyer's financing and the time of Closing.

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(f) Buyer will authorize the Lender to order the appraisal of the Property before expiration of the Inspection Period, as defined in this Agreement or OREF 026 – New Construction Inspection Addendum.

(g) Buyer authorizes Buyer's Lender to provide non-confidential information to Buyer's and Seller's Agents regarding Buyer's loan application status.

7. **SELLER-CARRIED FINANCING:** If the Seller is financing all or a portion of the Purchase Price through a land sale contract, promissory note and trust deed/mortgage, option, or lease-to-own agreement (a "Seller-Carried Transaction"), Buyer and Seller are advised to review the OREF 032 – Advisory Regarding Seller-Carried Transactions. Buyer and Seller will: (*select only one*)

(a) use the OREF 033 – Seller-Carried Transaction Addendum and related forms; or

(b) secure a mortgage loan originator ("MLO") or legal counsel to negotiate and draft the necessary documents.

Regardless of the option selected above, Seller and Buyer will reach a signed written agreement specifying the terms and conditions of such financing (for example, the down payment, interest rate, amortization, term, payment dates, late fees, and balloon dates) within _____ Business Days (ten [10] if not filled in) after the Effective Date ("Negotiation of Terms Period"). If Buyer and Seller fail to reach agreement by 5:00 p.m. on the last day of the Negotiation of Terms Period, all Deposits will be refunded to Buyer and this transaction will be automatically terminated. Oregon law requires, unless exempted, that individuals offering or negotiating the terms must be an Oregon-licensed attorney or hold an MLO license. Real estate agents are not qualified to provide these services or give advice in this regard. Legal advice is strongly recommended.

8. **ADDITIONAL FINANCING PROVISIONS:** For buyer's agent compensation or closing costs use Section 4 (Seller Contributions) (*describe*) _____

_____. For additional financing provisions, see Addendum _____.

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INSURANCE

9. PROPERTY AND CASUALTY INSURANCE: Buyer is encouraged to promptly verify the availability and cost of property and casualty insurance that will be obtained for the Property. Additionally, Buyer's Lender, if any, may require proof of that insurance as a condition of a new loan.

10. FLOOD INSURANCE: If the Property is located in a high-risk flood zone, flood insurance may be required as a condition of a new loan. Buyer is encouraged to promptly verify the need for, availability of, and cost of flood insurance. An Elevation Certificate ("EC") is a document used by the National Flood Insurance Program to determine the difference in elevation between a structure and the elevation to which floodwater is anticipated to rise during certain floods. Although an EC is not required to obtain flood insurance, a favorable EC may help lower the insurance premium. For more information, go to www.fema.gov.

CONTINGENCIES

11. TITLE INSURANCE: Within one (1) Business Day after the Effective Date, Seller will order from Escrow a preliminary title report and copies of or links to all documents of record (the "Reports and Documents") for the Property. The Parties instruct Escrow to Deliver the Reports and Documents to Buyer, as soon as the Reports and Documents are available. If the Report and Documents are not fully understood, Buyer should contact Escrow for further information or seek competent legal advice. Buyer's and Seller's Agents are not qualified to advise on title issues.

Following Delivery of the Report and Documents, and following Delivery of each supplement to the Reports and Documents that contains material information previously unknown to Buyer, Buyer will have ___ Business Days (five [5] if not filled in) within which to Notify Seller and Escrow, in writing, of any unacceptable matters disclosed in the Report and Documents (the "Objections"). Buyer's failure to timely object in writing will be deemed acceptance of the Report and Documents. However, Buyer's failure to timely object will not relieve Seller of the duty to convey marketable title to the Property as described in Section 39 (Deed). If within ___ Business Days (five [5] if not filled in) following Seller's receipt of the

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Objections, Seller fails to remove or correct any of the Objections, or fails to give written assurances reasonably satisfactory to Buyer of removal or correction before Closing, all Deposits will be promptly refunded to Buyer and this transaction will be terminated unless Buyer waives this contingency in writing. Within thirty (30) Calendar Days after Closing, Escrow will furnish to Buyer, at Sellers sole expense, an owner's standard form policy of title insurance insuring that Buyer has marketable title to the Property in the amount of the Purchase Price, free and clear of the Objections, if any, and all other title exceptions agreed to be removed as part of this transaction. Subject to the requirement of the Homebuyer Protection Act (Section 28), if Buyer requires an early-issue policy of title insurance, (*select one*) Buyer Seller will pay the additional premium.

12. PROPERTY INSPECTIONS: Buyer understands it is advisable to have complete inspections of the entire Property performed by qualified licensed professionals relating to such matters as structural condition, soil condition/compaction/stability, survey, zoning, operating systems, suitability for Buyer's intended purpose, and environmental issues. The following list identifies some, but not all, environmental issues that may affect health: asbestos, carbon monoxide, high-frequency electric and magnetic fields, formaldehyde, lead and other contaminants in drinking water and well water, lead-based paint, mold and mildew, radon, and leaking underground storage tanks. If Buyer has any concerns about these conditions or others, Buyer is encouraged to secure the services of licensed professional inspectors, consultants, or health experts for information and guidance. Real estate agents may provide names and contact information of inspectors, consultants, and experts, however, Buyer should thoroughly vet their qualifications, licensing, and insurance before retaining them. Buyer's and Seller's Agent are not qualified to conduct such inspections and will not be responsible to do so. For further details, Buyer is encouraged to review the website of the Oregon Public Health Division at www.public.health.oregon.gov.

(*select only one*)

(a) Licensed Professional Inspections. At Buyer's expense, Buyer may have the Property inspected by one or more licensed professionals of Buyer's choice. Inspections that include testing or removal of any portion of the Property (for example, radon and mold) may not be performed except for the following: (*identify invasive inspections*) _____

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Buyer will restore the Property following any inspections or tests performed by Buyer. Buyer will have ___ Business Days (ten [10] if not filled in) after the date the Seller has Delivered to Buyer the certificate of occupancy (the "Inspection Period"), in which to complete all inspections and negotiations with Seller regarding any matters disclosed in any inspection report. Buyer will not provide all or any portion of the inspection reports to Seller unless Seller delivers Notice to Buyer requesting reports; but if Seller requests in writing all or a portion of a report during this transaction or within thirty (30) Calendar Days following termination, Buyer will promptly comply.

Seller will not be required to modify any terms of this Agreement. Unless a written agreement has already been reached with Seller regarding Buyer's requested repairs, Buyer may give Notice to Seller, using OREF 064 – Notice of Buyer's Unconditional Disapproval, at any time during the Inspection Period, of Buyer's unconditional disapproval of the Property based on any inspection report, in which case all Deposits will be promptly refunded and this transaction will be terminated. If Buyer fails to provide Seller with written unconditional disapproval of any inspection report(s) by 5:00 p.m. on the final day of the Inspection Period, using OREF 064 – Notice of Buyer's Unconditional Disapproval, Buyer will be deemed to have accepted the condition of the Property. If before expiration of the Inspection Period, written agreement is reached with Seller regarding Buyer's requested repairs, the Inspection Period will automatically terminate unless the Parties agree otherwise in writing.

(b) Alternative Inspection Procedures. (select one)

(i) If construction is not yet completed, OREF 026 – New Construction Professional Inspection Addendum is attached to this Agreement.

(ii) If construction is completed, inspection addendum (*specify*) _____ is attached to this Agreement.

(c) Buyer's Waiver of Inspection Contingency. Buyer represents to Seller, Agents, and Firms that Buyer is fully satisfied with the condition

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of the Property and its elements and systems, and knowingly and voluntarily elects to waive the right to have any inspections performed as a contingency to the Closing of the transaction. At Buyer's expense, Buyer may have the Property inspected by one or more licensed professionals of Buyer's choice for informational purposes only. Buyer must specifically identify in this Agreement any desired invasive inspections that may include testing or removal of any portion of the Property (for example, radon and mold). (identify invasive inspections)

Buyer will restore the Property following any inspections or tests performed by Buyer or on Buyer's behalf. Buyer will have ___ Business Days (ten [10] if not filled in) after the Effective Date in which to complete all inspections.

(d) Buyer's Waiver of Inspections and Inspection Contingency. Buyer represents to Seller, Agents, and Firms that Buyer is fully satisfied with the condition of the Property and its elements and systems, and knowingly and voluntarily elects to waive the inspection contingency and the right to have any inspections. Buyer's waivers are solely Buyer's decision and at Buyer's own risk.

(e) Other Inspection Addendum. (specify) _____.

The selection above does not apply to OREF 081 – Septic/Onsite Sewage System or OREF 082 – Private Well Addendum if attached.

13. PRIVATE WELL: Does the Property include a well that supplies ground water for human consumption? (select one) Yes No
If Yes, Buyer has attached OREF 082 – Private Well Addendum to this Agreement.

14. SEPTIC/ONSITE SEWAGE SYSTEM: Does the Property include a septic/onsite sewage system? (select one) Yes No
If Yes, Buyer has attached OREF 081 – Septic/Onsite Sewage System Addendum to this Agreement.

15. LEAD-BASED PAINT: Seller represents there are no structures located on the Property that were constructed before 1978.

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16. DISCLOSURE/EXEMPTION: This exemption is only available to Seller if this section is fully completed. Seller represents that:

- (a) this is the first sale of a dwelling that has never been occupied; and
- (b) this home was constructed or installed under building or installation permit(s) # _____ issued by _____.

CONDITION AND COMPONENTS OF THE PROPERTY

17. SELLER REPRESENTATIONS: Subject to any written disclosures made by Seller as a part of this transaction, Seller makes the following representations to Buyer.

(a) The primary dwelling is connected to: *(select all that apply)*

- (i) a public sewer system,
- (ii) an on-site sewage system,
- (iii) a public water system,
- (iv) a private well, and/or
- (v) other (for example, surface springs, cistern, etc.): _____.

(b) Seller has no knowledge of any hazardous substances in or about the Property other than substances (if any) contained in appliances and equipment. Buyer acknowledges asbestos commonly exists in insulation, ceilings, floor coverings, and other areas in residential housing and may exist in the Property.

(c) Seller knows of no material defects in or about the Property.

(d) At the time of Closing, the home will be in broom-clean condition, and the remainder of the Property will be clean and free of all equipment, tools, and construction debris.

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- (e) Seller has no notice of any liens or assessments to be levied against the Property.
- (f) Seller has no notice from any governmental agency of any violation of law relating to the Property.
- (g) Seller represents and warrants that Seller has constructed all improvements in accordance with all applicable laws, ordinances, codes, and regulations.
- (h) Seller knows of no material discrepancies between visible lines of possession and use (such as existing fences, hedges, landscaping, structures, driveways, and other such improvements) currently existing on the Property offered for sale and the legal description of the Property.
- (i) The Property is fully insured by Seller.

Seller will promptly Notify Buyer if, before Closing, Seller receives actual notice of any event or condition that could result in making any of the above representations or previously disclosed material information relating to the Property substantially misleading or incorrect.

These representations are made to the best of Seller's knowledge. Seller may have made no investigations. Exceptions to items (a) through (i) are: *(describe)* _____ . For more exceptions see Addendum _____ .

Buyer acknowledges the above representations are not warranties regarding the condition of the Property and are not a substitute for, nor in lieu of, Buyer thoroughly and completely investigating, using professionals, where appropriate, all material matters related to the condition and value of the Property, and its suitability for Buyers intended use. Buyer's and Seller's Agents will not be responsible for conducting any inspection or investigation of any aspects of the Property. Buyer acknowledges that Seller or any Agent do not warrant the square footage of any structure or land being purchased. If square footage or land size is a material consideration, all structures and land should be measured by Buyer before signing or should be made an express contingency in this Agreement.

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18. SELLER'S MAINTENANCE AND INSURANCE OBLIGATIONS: If construction has been completed, Seller will maintain all electrical wiring, heating, cooling, plumbing, irrigation equipment and systems and the balance of the Property, including the yard, in substantially their present condition until the time Buyer is entitled to possession. Seller will keep the Property fully insured through Closing.

19. "AS-IS": (select only one)

(a) Except for Seller's express written agreements and written representations contained in this Agreement, Buyer is purchasing the Property "AS-IS," in its condition at the time of Closing and with all defects apparent or not apparent. This provision does not limit: (i) Seller's obligation to complete any construction, punch list and other work described in this Agreement; (ii) Seller's other agreements, representations and warranties in this Agreement; or (iii) Buyer's rights under implied new home warranties, if any, that may exist under Oregon law.

(b) See attached Addendum _____ regarding Seller warranties and/or disclaimers, if any.

20. APPROVED USES: THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN [ORS 30.930](#), IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER [ORS 195.300](#), [195.301](#) AND [195.305 TO 195.336](#) AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN [ORS 92.010](#) OR [215.010](#), TO VERIFY THE APPROVED

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USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER [ORS 195.300](#), [195.301](#) AND [195.305 TO 195.336](#) AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

21. SMART HOME FEATURES: Seller will identify all Smart Home Features in writing within ___ Business Days (three [3] if not filled in) after the Effective Date. In addition, Seller will provide all necessary information for Buyer to access the Smart Home Features at Closing.

22. HOMEOWNERS ASSOCIATION/TOWNHOME/PLANNED COMMUNITY: Is the Property a townhome, in a planned community, or is it in an area subject to a Homeowner's Association? (select one) Yes No Unknown
If Yes, Buyer has attached OREF 024 – Owners Association Addendum to this Agreement. In this Agreement, "townhome" means a connected home where the owner also owns the ground beneath the home, and "planned community" means a residential subdivision, not a condominium or timeshare, in which owners are collectively responsible for part of the subdivision.

23. SMOKE/CARBON MONOXIDE DETECTORS: Within ___ Business Days (ten [10] if not filled in) after the Effective Date, all smoke alarms, smoke detectors, and carbon monoxide detectors required by law will be installed in the Property and will be in working order. Refer to [ORS 479.260](#) for smoke alarms and smoke detectors and [ORS 476.725](#) for carbon monoxide alarms or see www.oregon.gov/osfm.

24. SOLAR PANEL SYSTEM: Does the Property contain solar panels? (select one) Yes No
If Yes, Seller will promptly provide Buyer with OREF 105 – Solar Panel System Addendum.

25. COMMENCEMENT OF CONSTRUCTION: If construction has not begun as of the date Buyer and Seller have signed this Agreement, the term "commencement of construction" is defined to mean the date excavation on the lot begins, which is estimated to be (insert date) _____.

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26. PLANS AND SPECIFICATIONS: If construction on the Property has not been completed before the date Buyer and Seller have signed and accepted this Agreement, where applicable, they are encouraged to complete an Addendum regarding such things as the selection of colors, coverings, hard surfaces, lighting fixtures, cost of upgrades, etc. If Buyer and Seller have not agreed upon the plans and specifications for any new construction on the Property as of the date they have signed this Agreement, they will do so within the following _____ Business Days (seven [7] if not filled in). Upon failure to reach such agreement in writing, this transaction will be terminated, and all earnest money will be promptly returned to Buyer.

27. CONSTRUCTION LIENS: Seller warrants and represents that from and after the date of Closing, all Seller's contractors, subcontractors, suppliers, and all others who provided labor or material to the Property or who have the right to lien, will have been fully paid and/or will have released all of their lien rights as against the Property.

28. HOMEBUYER PROTECTION ACT: Construction liens can be filed by contractors and building material suppliers for new construction, additions, and remodeling projects. Construction liens filed after Closing could expose buyers to liability for costs that sellers should pay before Closing. Oregon's Homebuyer Protection Act requires sellers to protect buyers against these liens. If the Property is a single-family residence, condominium unit, or 2-4 dwelling building, and if construction is completed on certain new or existing residential property during the ninety (90) calendar days before Closing, Seller will, at or before Closing, complete and deliver to Buyer the "Notice of Compliance with the Homebuyer Protection Act" provided by the Oregon Construction Contractors Board.

29. CONSTRUCTION CONTRACTOR'S BOARD: Seller represents that:

- (a) Seller is currently licensed with the Oregon Construction Contractor's Board ("CCB") and holds the following endorsements: (select all that apply) Residential, Commercial;
- (b) To the best of Seller's knowledge, Seller is in full compliance with all requirements of [ORS Chapter 701](#) governing construction contractors;

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- (c) To the best of Seller's knowledge, Seller is in full compliance with all state and federal laws regarding social security, income and unemployment taxes, and workers compensation insurance;
- (d) Seller is bonded as required by Oregon laws, and that bond has not been reduced, exhausted or cancelled;
- (e) Seller is insured for public liability, personal injury and property damage, as required by Oregon laws and that insurance has not been reduced, exhausted or cancelled;
- (f) Seller has used and will only use licensed subcontractors properly endorsed for the work to be performed as required by law; and
- (g) Seller has not been sanctioned or disciplined by the CCB.

Exceptions to Items (a) through (g) are: *(describe)* _____

If Buyer is contracting with Seller to construct certain improvements on the Property, Buyer should verify that Seller is properly licensed and in good standing with the CCB. Buyer is advised that subject to certain limitations, Oregon law permits the owner of a residential structure to file a claim against a licensed contractor for negligent or improper work, breach of contract, and other specific reasons related to the construction of improvements to real property. Generally, such claims may only be filed within one (1) year following occupancy of the residence or two (2) years of Completion, whichever occurs first. For a general description of Buyer's and Seller's rights, responsibilities, and related forms, see <http://www.ccb.state.or.us/>.

30. INSULATION: Seller will promptly provide Buyer with information regarding the type of insulation, its location, its thickness, and R-value used throughout the home.

31. WORKERS' COMPENSATION INSURANCE: Buyer is advised that subject to certain limitations, Oregon law requires employers to maintain workers' compensation insurance for their employees through an authorized workers' compensation carrier. If Buyer is contracting with Seller to construct certain improvements on the Property, Buyer should verify that Seller maintains workers'

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compensation insurance for its employees. If Buyer directly hires any contractors or subcontractors, Buyer should similarly ensure that they maintain workers' compensation insurance.

32. HOME WARRANTIES; CONTRACTOR WARRANTIES; RECOMMENDED MAINTENANCE SCHEDULES: These plans are voluntary and may be negotiated directly between Seller and Buyer. Attach Addendum _____ to describe any such plans, the provider, and who will pay for it. Buyer should review such plans in advance of signing this Agreement.

(a) In addition, Oregon law requires that contractors entering into a contract to build a new residential structure on or after July 1, 2008, must make a written offer of warranty (the "Contractor's Warranty") see [ORS 701.320](#), to a buyer who is the owner or first purchaser which covers defects in materials and workmanship for the structure. The type, extent, scope, cost, provider, and length of the Contractor's Warranty are up to Seller. Buyer may refuse the Contractor's Warranty and Seller may withdraw the offer to construct the structure, as long as this Agreement has not yet been signed by both Parties.

(i) Has Buyer received a copy of the Contractor's Warranty before signing this Agreement? (*select one*) Yes No

(ii) Buyer (*select one*) accepts rejects Contractor's Warranty.

(b) Pursuant to [ORS 701.335](#) for all new residential structures (one-to-four family dwellings, condominiums, modular homes, manufactured dwellings, and floating homes) on which construction is Completed on or after July 1, 2008, and Buyer is the first purchaser or owner of the structure, Seller will provide Buyer with a recommended maintenance schedule. The CCB has prepared a recommended minimum maintenance schedule in Oregon Administrative Rule 812-012-01209(4). The maintenance schedule must be given by contractor to Buyer at the time that the written offer of warranty is made under [ORS 701.320](#).

(i) Has Buyer received a copy of the maintenance schedule before signing this Agreement? (*select one*) Yes No

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(c) Seller to complete and provide any CCB required documents, notices, and/or disclosures, as well as those required by other state statutes or rules, to Buyer in a timely manner.

33. ADDITIONAL PROVISIONS: (describe) _____

_____. For additional provisions, see Addendum _____.

ESCROW AND CLOSING

34. **ESCROW:** This transaction will be Closed at (identify) _____ ("Escrow"), a neutral escrow company licensed and located in the State of Oregon. Costs of Escrow will be shared equally between Buyer and Seller unless specifically prohibited by the U.S. Department of Veterans Affairs (Federal VA). Any transfer tax will be shared equally between Buyer and Seller. Seller authorizes Seller's Agent to order an owner's title policy at Seller's expense and further authorizes Escrow to pay out of the cash proceeds of sale the expense of furnishing such policy, Seller's recording fees, Seller's Closing costs, and any liens and encumbrances on the Property payable by Seller on or before Closing. Buyer will deposit with Escrow sufficient funds necessary to pay Buyer's recording fees, Buyer's Closing costs, and Lender's fees if any. Real estate fees or compensation for professional real estate services provided by Buyer's or Seller's Agents' Firms will be paid at Closing in accordance with the listing agreement, buyer representation agreement, or other written agreement for compensation.

35. **EARNEST MONEY DEPOSIT(S):** Once the Deposits are placed with Escrow, Seller's and Buyer's Agents and Firms will have no further responsibility to Byer or Seller regarding the Deposits.

35.1. **Deposit.** The Deposit will be payable and deposited within ____ Business Days (three [3] if not filled in) after the Effective Date (the "Deposit Deadline") as follows: (select one)

(a) directly with Escrow;

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- (b) directly into Buyer's Agent's Firm's client trust account and remain there until disbursement at Closing;
- (c) directly into Buyer's Agent's Firm's client trust account, followed by deposit with Escrow/Title Company before Closing; and/or
- (d) as follows: *(describe)* _____

35.2. Additional Deposit. If an Additional Deposit is to be paid, it will be deposited by *(insert date)* _____ or other *(describe)* _____ (the "Additional Deposit Deadline") as follows: *(select one)*

- (a) directly with Escrow;
- (b) directly into Buyer's Agent's Firm's client trust account and remain there until disbursement at Closing;
- (c) directly into Buyer's Agent's Firm's client trust account, followed by deposit with Escrow/Title Company before Closing; and/or
- (d) as follows: *(describe)* _____.

35.3. Breach of Earnest Money. Buyer's failure to place the Deposit and/or Additional Deposit, as described above, by no later than 5:00 p.m. on the last day of the Deposit Deadline and/or Additional Deposit Deadline, will be considered a breach of Section 32.2 (Earnest Money Payment to Seller).

Buyer's withdrawal or attempted withdrawal of one or both Deposits, except as authorized by Seller or in accordance with this Agreement, will be considered a breach of this Agreement, will result in a forfeit of the Deposit, and, at the option of the Seller, termination of this Agreement.

36. EARLY RELEASE OF DEPOSIT: In consideration of Seller Completing the home to Buyer's specifications, Buyer and Seller agree, after the Deposits are placed with Escrow, the Funds: *(select only one)*

- (a) will not be disbursed to Seller before Closing; or

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(b) will be disbursed to Seller before Closing as follows: (describe) _____, in which case, the Funds will become nonrefundable to Buyer so long as Seller is not otherwise in default under this Agreement.

37. EARNEST MONEY DEPOSIT INSTRUCTIONS TO ESCROW: Buyer and Seller instruct Escrow as follows: upon your receipt of a copy of this Agreement signed by Buyer and Seller, establish an escrow account and proceed with Closing in accordance with the terms of this Agreement. If you determine the transaction cannot be Closed for any reason (whether or not there is a dispute between Buyer and Seller), you are to hold all Deposits until you receive written instructions from Buyer and Seller, or a final ruling from a court or arbitrator, as to the disposition of the Deposits.

37.1. Earnest Money Refund to Buyer. All Deposits will be promptly refunded to Buyer if: (a) Seller signs and accepts this Agreement but fails to furnish marketable title; or (b) Seller fails to complete this transaction compliance with the material terms of this Agreement; or (c) any condition which Buyer has made an express contingency in this Agreement, and has not been otherwise waived, fails through no fault of Buyer. However, Buyer's acceptance of the refund will not constitute a waiver of other legal remedies available to Buyer.

37.2. Earnest Money Payment to Seller. If Seller signs and accepts this Agreement and title is marketable, Seller, at Seller's option, may terminate this Agreement, and all Deposits paid or agreed to be paid will be paid to Seller as liquidated damages, if: (a) Buyer has materially misrepresented Buyer's financial status; or (b) Buyer's financial institution does not pay, when presented, any check given as Deposit or fails to timely make a wire transfer of a Deposit; or (c) Buyer fails to complete this transaction in accordance with the material terms of this Agreement. The Parties expressly agree Seller's economic and non-economic damages arising from Buyer's failure to close this transaction in accordance with the terms of this Agreement would be difficult or impossible to ascertain with any certainty, that the Deposits are a fair, reasonable, and appropriate estimate of those damages, and represent a binding liquidated sum, not a penalty.

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The Seller's sole remedy for Buyer's failure to close this transaction in accordance with the material terms of this Agreement is limited to the Deposits. Seller's right to recover from Buyer any Deposit will be resolved as described in the Dispute Resolution Sections.

38. CLOSING: The terms "Complete," "Completion," "Completed," or "Completing" are defined to mean the date an occupancy permit, or equivalent, is issued by the applicable jurisdiction in which the Property is located. (*select one of the following*)

(a) Construction of all improvements has been Completed as of the date Buyer and Seller signed and accepted this Agreement. Closing will occur on a date mutually agreed upon by Buyer and Seller, but, in no event later than (*insert date*) _____ (the "Closing Deadline"). Buyer and Seller acknowledge that for Closing to occur by the Closing Deadline, it may be necessary to execute documents and deposit funds in escrow before that date.

(b) Construction of all improvements has not been Completed as of the date Buyer and Seller sign this Agreement. Seller will exercise Seller's best efforts to complete construction and Close this transaction by (*insert date*) _____ (the "Projected Closing Date"). Buyer and Seller will cooperate with each other in processing all appropriate applications, permits and approvals in a timely manner. However, the Projected Closing Date may be extended a reasonable time, not to exceed ___ Business Days (thirty [30] if not filled in), if construction is delayed by any damage caused by fire or other casualties, extreme weather conditions, general strike or lock-outs caused by the acts of employees, or for any reason not within the normal control of Seller (such as delays in the delivery of items selected by Buyer, shortage of materials, etc.). Section 7 (Seller-Carried Financing) requires three (3) Business Days before the Closing Deadline if Escrow is to prepare a note and a deed of trust or mortgage.

Pursuant to the TILA-RESPA Integrated Disclosure Act ("TRID") Buyer and Seller will each receive a "Closing Disclosure" from Buyer's Lender. TRID typically requires the Closing Disclosure to be received by a buyer at least three (3) Business Days before the date the buyer signs loan documents. A change to the

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Closing Disclosure late in the transaction could result in a delay in Closing to comply with the three-business day rule. A delay beyond the Closing Deadline could result in termination of the transaction unless Seller and Buyer mutually agree to extend it.

39. DEED: Seller will convey marketable title to the Property by statutory warranty deed (or good and sufficient personal representative's or trustee's or similar legal fiduciary's deed, where applicable) free and clear of all liens of record, except property taxes that are a lien but not yet payable, zoning ordinances, building and use restrictions, reservations in federal patents, easements, covenants, conditions and restrictions, and those matters accepted by Buyer pursuant to Section 11 (Title Insurance). Buyer is advised to secure legal advice regarding different forms of ownership and rights of survivorship. Agents are not qualified to provide advice on these issues. Once the desired form of ownership is determined, Buyer will promptly notify Escrow.

40. POSSESSION: Possession of the Property will be delivered by Seller to Buyer: *(select one)*

(a) by 5:00 p.m. on the date of Closing;

(b) by *(insert time)* _____ a.m. p.m. ____ Calendar Days after Closing;

(c) by *(insert time)* _____ a.m. p.m. on *(insert date)* _____.

41. PROPERTY CONDITION AT POSSESSION: Before Buyer possession, Seller will remove all of Seller's personal property, including trash, except for the items described in Section 2.2 (Personal Property). In addition, Seller will *(specify additional property conditions)* _____

For additional property conditions at possession, see Addendum _____.

42. PRORATIONS: Prorates for current year's taxes and other prepaid expenses or assessments attributable to the Property will be as of *(select one)* the Closing Date the date Buyer is entitled to possession other *(specify)* _____

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43. UTILITIES: Seller will pay all utility bills accrued to the date Buyer is entitled to possession. Buyer will pay Seller for heating fuel/propane on the Property on the date Buyer is entitled to possession, at Seller's supplier's rate. Payment will be handled between Buyer and Seller outside of Escrow. Seller will not terminate or disconnect electric, gas, heating fuel/propane, or water utilities before the date Buyer is entitled to possession unless the Parties agree otherwise in writing.

TAXES

44. INCOME TAX WITHHOLDING:

44.1. Oregon Withholding. Subject to certain exceptions, Escrow is required to withhold a portion of Seller's proceeds if Seller is a non-resident individual or corporation as defined under Oregon law. Buyer and Seller will cooperate with Escrow by executing and delivering any instrument, affidavit, or statement as requested, and to perform any acts reasonable or necessary to carry out the provisions of Oregon law.

44.2. Federal Withholding (FIRPTA). If Seller is a foreign person under the Foreign Investment in Real Property Tax Act ("FIRPTA") then even if there is an exemption to FIRPTA applicability, Buyer and Seller will ask Escrow to assist the Parties with FIRPTA compliance, see OREF 092 – Advisory Regarding FIRPTA Tax. Seller's failure to comply with FIRPTA is a material default under this Agreement.

If Seller is not a foreign person, then Seller will Deliver to Escrow a certificate that complies with 26 CFR §1.1445-2 (the "Certificate") before Closing. If Seller fails to do so, Seller will be presumed to be a foreign person, and the terms of the previous paragraph will apply. Escrow is instructed to act as a Qualified Substitute and provide Buyer with a statement that complies with 26 U.S.C. § 1445(b)(9) at Closing.

If Escrow does not agree to assist with FIRPTA compliance, including providing the form Certificate or acting as a Qualified Substitute, then either Buyer or Seller may move Escrow to another Oregon-licensed escrow agent who is willing to assist with FIRPTA compliance, in which case the Parties will equally share any cancellation fees. If due to moving escrow, this transaction

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cannot be Closed by the Closing Date, the Closing Date will be extended by five (5) Business Days to accommodate the move.

Seller's and Buyer's Agents are not experts in FIRPTA and will not act as a transferor or transferee agent or Qualified Substitute for purposes of the Withholding Requirement. If FIRPTA may apply in this transaction, Seller and Buyer should promptly consult their own experts familiar with FIRPTA related law and regulations. For further information, see www.irs.gov.

45. 1031 EXCHANGE: If Buyer or Seller elects to complete an exchange under Section 1031 of the Internal Revenue Code in this transaction, the other Party will cooperate with them and the accommodator, if any, as necessary to complete the exchange, so long as it will not delay the close of escrow or cause additional expense or liability to the cooperating Party. Unless otherwise provided in this Agreement, this provision will not become a contingency to the Closing of this transaction.

46. LEVY OF ADDITIONAL PROPERTY TAXES: The Property (*select one*) is is not specially assessed for property taxes (for example, farm, forest, or other) in a manner that may result in the levy of additional taxes in the future. If it is specially assessed, Seller represents the Property is current as to income or other conditions required to preserve its deferred tax status. If, as a result of Buyer's actions or the Closing of this transaction, the Property either is disqualified from special use assessment or loses its deferred tax status, then unless otherwise specifically indicated in this Agreement, Buyer will be responsible for and will pay when due, any deferred and/or additional taxes and interest that may be levied against the Property, and will defend Seller against any liabilities or claims arising out of those taxes or assessments.

However, if as a result of Seller's actions before Closing, the Property either is disqualified from its entitlement to special use assessment or loses its deferred tax status, and if Seller did not disclose the upcoming disqualification or loss of status to Buyer in writing prior to Closing, Buyer may, at Buyer's sole option, promptly either: (a) terminate this transaction and receive a refund of all Deposits paid by Buyer in anticipation of Closing; or (b) close this transaction, in which event Seller will pay into escrow all deferred and/or additional taxes and interest levied or recaptured against the Property and will defend Buyer against any liabilities or claims arising out of those taxes or assessments. Nothing in this

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paragraph will be construed to limit Buyer's or Seller's available remedies or damages arising from a breach of this section.

DISPUTE RESOLUTION

47. FILING OF CLAIMS: All claims, controversies, and disputes between Seller, Buyer, Agents, and/or Firms, relating to the enforcement or interpretation of this Agreement (including those for rescission), as well as those relating to the validity or scope of the Sale Agreement, and all matters concerning the jurisdiction of the arbitrator(s) and/or Arbitration Service of Portland ("ASP"), to hear and decide questions of arbitrability (collectively, "Claims"), will be exclusively resolved in accordance with the procedures in this section, which will survive Closing or earlier termination of this transaction. All Claims will be governed exclusively by Oregon law, and venue will be placed in the county where the Property is situated. Filing a Claim for arbitration will be treated the same as filing in court for purposes of meeting any applicable statute of limitations or statute of ultimate repose, and for purposes of filing a *lis pendens*. By consenting to the provisions in this section, Buyer and Seller acknowledge they are giving up the constitutional right to have Claims tried by a judge or jury in state or federal court, including all issues relating to the arbitrability of Claims.

48. EXCLUSIONS: The following will not constitute Claims:

- (a) any proceeding to enforce or interpret a mortgage, trust deed, land sale contract or recorded construction lien;
- (b) a forcible entry and detainer action, also known as an eviction;
- (c) if the matter is exclusively between REALTORS® and is otherwise required to be resolved under the Code of Ethics & Professional Standards Policies of the National Association of REALTORS®;
- (d) if the matter relates to real estate compensation or fee with an Agent or Firm, and the written listing, service, or fee agreement with Buyer or Seller contains a mandatory mediation and/or arbitration provision; and
- (e) filing in court for the issuance of provisional process described under the Oregon Rules of Civil Procedure; however, such filing will not

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constitute a waiver of the duty to utilize the dispute resolution procedures described in this Agreement.

49. SMALL CLAIMS BETWEEN BUYER AND SELLER: If the Circuit Court in the county in which the Property is located has a small claims department, all Claims between Buyer and Seller within the jurisdiction of that small claims department will be brought and decided there, in lieu of mediation, arbitration, or litigation in any other forum. If that Circuit Court does not have a small claims department, those Claims will be brought and decided in the small claims department of the applicable Justice Court. Buyer and Seller waive any rights they may have under [ORS 46.455\(3\)](#) or [ORS 55.065\(2\)\(c\)](#) to remove the matter from a small claims department by requesting a jury trial. A judgment in a small claims department is final and binding for all purposes, and despite the provisions of [ORS 51](#), there is no right to appeal a small claims department judgment.

50. MEDIATION AND ARBITRATION BETWEEN BUYER AND SELLER: All Claims will first be submitted to mediation through the program administered by ASP. All Claims that have not been resolved by mediation as described in this Agreement will be submitted to final and binding arbitration in accordance with the then-existing rules of ASP. The prevailing Party in any arbitration between Buyer and Seller will be entitled to recovery of all reasonable attorney fees, filing fees, costs, disbursements, and mediator and arbitrator fees; but only if it is first established to the satisfaction of the arbitrator(s) (or judge, if applicable) that the prevailing Party offered or agreed in writing to participate in mediation before, or promptly upon, the filing for arbitration.

51. MEDIATION AND ARBITRATION INVOLVING AGENTS/FIRMS: All Claims that include Agents or their Firms, including those within the jurisdiction of a small claims department, will be resolved in accordance with the mediation and arbitration process described in Section 50. If applicable, the prevailing party will be entitled to an award of attorney fees, filing fees, costs, disbursements, and mediator and arbitrator fees, as described in that section.

DEFINITIONS/MISCELLANEOUS

52. DEFINITIONS: In addition to the other definitions in this Agreement, when the first letter of these terms is capitalized, they mean the following:

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- (a) **Agent** means Buyer's or Seller's real estate agents licensed to perform professional real estate activity in the State of Oregon.
- (b) **Agreement** or **Sale Agreement** means this Residential Real Estate Sale Agreement and any written offer, counteroffer, or addendum in any form or language that adds to, amends or otherwise modifies this Agreement that has been Signed and Delivered.
- (c) **Business Day** means Monday through Friday, except days that are recognized as official holidays by Oregon under [ORS 187.010](#) or the United States under 5 U.S.C. § 6103.
- (d) **Calendar Day** means any day on the calendar including weekends and holidays.
- (e) **Closing**, **Closed**, and **Closing Date** mean when the deed or contract is recorded and funds are available to Seller.
- (f) **Deliver**, **Delivery**, and **Delivered** means transmission of a document, either by placing it in a U.S. mailbox, taking it to the recipient's address, or placing it in the custody of a delivery service ("Manual Delivery"), or by pushing "send" or "start" on a device that sends facsimiles or in an electronic mail program ("Electronic Delivery").
- (g) **Deposits** means the Deposit and any Additional Deposit described in Section 1 (Parties/Property Description/Price) of this Agreement.
- (h) **Effective Date** means the date Seller and Buyer have (i) signed and accepted the Sale Agreement, and (ii) Delivered it to the other Party.
- (i) **Firm** means the real estate company with which an Agent is affiliated.
- (j) **Notice** means a written statement Delivered to the other Party.
- (k) **Notify** or **Notifies** means delivering a Notice to the other party or their Agent.
- (l) **Parties** means Buyer and Seller, and "**Party**" means Buyer or Seller.

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(m) **Signed and Delivered** means Seller and Buyer have: (i) signed a document, and (ii) Delivered it to the other party or their Agent. When a document is "Signed and Delivered," it becomes legally binding on Buyer and Seller, and neither has the ability to withdraw it.

(n) **Smart Home Features** means appliances, lighting, or electronic devices that can be controlled remotely by the owner, often via a mobile app. Smart Home Features may also operate in conjunction with other devices in the home and communicate information to other smart devices.

53. MISCELLANEOUS: The following provisions govern the manner in which the terms of this Agreement will be construed.

(a) **Binding Effect.** This Agreement is binding on the heirs, successors, and assigns of Buyer and Seller. However, Buyer's rights and responsibilities under this Agreement or in the Property are not assignable without the prior written consent of Seller.

(b) **Counterparts.** This Agreement may be signed in multiple legible counterparts with the same legal effect as if all parties signed the same document.

(c) **Electronic Transmission.** The sending of a signed acceptance of this Agreement via Electronic Delivery from one party (or their Agent) to the other party (or their Agent) will have the same effect as Manual Delivery of the signed original. If the parties intend to use any other method for transmitting a signed offer or acceptance of the Agreement (such as regular mail, certified mail, or overnight delivery), they should so specify at Section 33 (Additional Provisions) of this Agreement.

(d) **Nonparties.** Agent(s) and Firm(s) identified in the Final Agency Acknowledgment Section are not parties to this Agreement but are subject to Section 51 (Mediation and Arbitration Involving Agents/Firms).

(e) **Notices.** All written notices or documents required or permitted under this Agreement to be Delivered to Buyer or Seller may be Delivered to

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their respective Agent with the same effect as if Delivered to that Buyer or Seller. When escrow for this transaction is opened, Buyer, Seller, and their respective Agents, where applicable, will provide Escrow with their preferred means of receiving Notice (for example, email or text address, facsimile number, mailing or personal delivery address, or other), which will serve as the primary location for receipt of all notices or documents (the “Notification Method”). Notice will be deemed Delivered as of the earliest of:

- (i) the date and time the Notice is sent by email or fax;
- (ii) the time the Notice is personally Delivered to either the Agent or the Agent’s Office; or
- (iii) three (3) Calendar Days after the date the Notice is posted in the U.S. Mail.

(f) Time.

- (i) Time is of the essence of this Agreement.
- (ii) Any reference in this Agreement to a specific time refers to the time in the time zone where the Property is located.
- (iii) Time calculated
 - (1) in Calendar Days after the Effective Date will start on the first full Calendar Day after the Effective Date;
 - (2) in Business Days after the Effective Date will start on the first full Business Day after the Effective Date;
 - (3) in Calendar Days after a triggering event, such as Delivery of a document, will start on the first full Calendar Day after the triggering event;
 - (4) in Business Days after a triggering event will start on the first full Business Day after the triggering event.
- (iv) If a date is calculated based on the “date Buyer is entitled to possession,” and if Buyer will not be entitled to possession of the Property because one or more tenants is in possession, the “date Buyer is entitled to possession” will, for that purpose, be deemed to be the Closing Date.

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(v) Unless a different time is specified in the Agreement, all deadlines for performance, measured in business or calendar days, will terminate as of 5:00 p.m. on the last day of the deadline.

SIGNATURE INSTRUCTIONS

54. OFFER TO PURCHASE: Buyer offers to purchase the Property on the terms and conditions in this Agreement. Buyer acknowledges receipt of a completely filled-in copy of this Agreement, which Buyer has fully read and understands. Buyer acknowledges that Buyer has not relied on any oral or written statement made by Seller, Seller's Agent, or Buyer's Agent that is not expressly contained in this Agreement. Because of the importance of consistent terminology and compatible documents, Buyer has chosen to use this Agreement and the other forms provided by Oregon Real Estate Forms, LLC ("OREF") for this transaction.

This offer will automatically expire on (*insert date and time*) _____ at _____ a.m. p.m. (the "Offer Deadline"). If not accepted by that time, Buyer may withdraw this offer before the Offer Deadline any time before Seller's transmission of signed acceptance. This offer may be accepted by Seller only in writing.

Buyer _____ Date _____ a.m. p.m. ←
Print _____

Buyer _____ Date _____ a.m. p.m. ←
Print _____

This offer was Delivered by Seller's Agent to Seller for signature on (*insert date and time*) _____ at _____ a.m. p.m.

55. SELLER'S RESPONSE: (*select one – if no selection is made, this Agreement is void and of no effect*)

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If Seller signs and transmits this Agreement or Counteroffer to Buyer after the Offer Deadline, this Agreement will not be binding on Seller and Buyer unless they also sign and Deliver an addendum, counteroffer, or other writing in which they expressly agree to extend the Offer Deadline. The Parties' failure to do so will be treated as a rejection under Section 55.3, and this Agreement is void and of no effect.

55.1. Agreement to Sell and Acknowledgments. Seller accepts Buyer's offer. Seller acknowledges receipt of a completely filled-in copy of this Agreement, which Seller has fully read and understands. Seller acknowledges that Seller has not relied on any oral or written statement made by Buyer, Buyer's Agent, or Seller's Agent that is not expressly contained in this Agreement. Seller has reviewed the Seller Representations made in Section 17 (Seller Representations) and elsewhere in this Agreement and will promptly correct, in writing, any inaccurate representations. Because of the importance of consistent terminology and compatible documents, Seller has chosen to use this Agreement and the other forms provided by OREF for this transaction.

55.2. Counteroffer. Seller does not accept the above offer and Seller has attached to this agreement OREF 003 – Seller's Counteroffer.

55.3. Rejection. Seller rejects Buyer's offer.

Seller: do not sign unless 55.1, 55.2 or 55.3 is selected.

Seller _____ Date _____ a.m. p.m. ←
Print _____

Seller _____ Date _____ a.m. p.m. ←
Print _____