

RESIDENTIAL SALES CONTRACT (WEST VIRGINIA)

This SALES CONTRACT ("Contract") is made on _____ ("Contract Date") between _____ ("Buyer") and _____ ("Seller") who, among other things, hereby confirm and acknowledge by their initials and signatures herein that by prior disclosure in this real estate transaction _____ ("Listing Company") represents Seller, and _____ ("Selling Company") represents Buyer, Seller OR Disclosed Dual Agency with knowledge and consent of both parties . The Listing Company and Selling Company are collectively referred to as "Broker." If the brokerage firm is acting as dual representative for both Seller and Buyer, then the appropriate disclosure form is attached to and made a part of this Contract. In consideration of the mutual promises and covenants set forth below, and other good and valuable consideration the receipt and sufficiency of which are acknowledged, the Seller[s] and Buyer[s] agree as follows:

1. REAL PROPERTY Buyer will buy, and Seller will sell for the sales price ("Sales Price"), Seller's entire interest in the real property (with all improvements, rights, and appurtenances) described as follows ("Property"): Street Address _____ Unit# _____ City _____ State _____ Zip Code _____, County/Municipality _____ Tax Map/ID# _____ Legal Description: _____ Lot(s) _____ Block/Square _____ Section _____ Subdivision/Condominium _____ Parking/Space# _____ Deed Book/Liber# _____ Page/Folio# _____

2. PRICE AND FINANCING

A. Down Payment \$ _____

B. Financing 1. First Trust (if applicable) \$ _____

2. Second Trust (if applicable) \$ _____

3. Seller Held Trust \$ _____

Addendum attached (if applicable)

TOTAL FINANCING \$ _____

SALES PRICE \$ _____

SELLER PAID SUBSIDY Seller's net reduced by: \$ _____

SELLER PAYMENT TOWARDS BUYER'S BROKERAGE COMPENSATION Seller's net reduced by: \$ _____

Seller's payment obligation of Buyer's brokerage compensation, contained here, is enforceable against Seller.

C. First Deed of Trust Buyer will Obtain OR Assume a Fixed OR an Adjustable rate First Deed of Trust loan of the following type:

See Attached Addendum: Conventional, VA, FHA, USDA, Other: _____ OR This contract is not contingent on Financing.

D. Second Deed of Trust Buyer will Obtain OR Assume a Fixed OR an Adjustable rate Second Deed of Trust loan.

Seller: _____ / _____ Buyer: _____ / _____

E. **Assumption Only** Assumption fee, if any and all charges related to the assumption will be paid by the Buyer. If Buyer assumes Seller's loan(s): (i) Buyer and Seller **will** OR **will not** obtain a release of Seller's liability to the U.S. Government for the repayment of the loan by Settlement, (ii) Buyer and Seller **will** OR **will not** obtain substitution of Seller's VA entitlement by Settlement. Balances of any assumed loans, secondary financing and cash down payments are approximate.

3. **SELECTION REQUIRED BELOW:**

TIME IS OF THE ESSENCE AS TO ALL TERMS OF THIS CONTRACT. Time is of the essence means that the dates and time frames agreed to by the parties must be met. Failure to meet stated dates or time frames will result in waiver of contractual rights or will be a Default under the terms of the Contract.

OR

TIME IS NOT OF THE ESSENCE AS TO ALL TERMS OF THIS CONTRACT. By selecting this option, the parties agree that time is not of the essence. Thus, a reasonable time is generally implied when meeting dates and time frames agreed to by the parties or stated in this Agreement. The parties are advised that a reasonable time may be measured by days or weeks, and that any inconvenience, rescheduling costs, or other out of pocket expenses incurred to allow a reasonable time may not be recoverable in such circumstances.

4. **DEPOSIT**

The EMD ("Deposit") of \$_____ is in hand OR will be received within ____ days of ratification and shall be deposited in a Trust Fund account of the **Listing Broker** OR **Selling Broker** OR **Attorney** after the Contract Ratification to conform with the laws and regulations of the appropriate jurisdiction and/or if VA financing applies, OR as required by Title 38 of the U.S. Code. If Buyer failed to timely deliver Deposit to Escrow Agent as provided herein, Seller may at Seller's option Deliver to Buyer Notice to Void Contract. Upon delivery of Seller notice to void contract, all respective rights and obligations of the parties arising under contract will terminate. Buyer may cure default by Delivering Deposit to Escrow Agent prior to Seller Delivery of Notice voiding the contract.

Deposit will be held in escrow until:

- a. Credited toward the Sales Price at settlement; OR
- b. All parties have agreed in writing as to its disposition; OR
- c. A court of competent jurisdiction orders disbursement and all appeal periods have expired; OR disposed of in any other manner authorized by the laws and regulations of the appropriate jurisdiction.

5. **GRANTORS TRANSFER TAX** shall be paid by the Seller. Any HOA cost including but not limited to transfer fees shall be paid by the Seller. All normal annual HOA fees shall be prorated.

6. **DOWN PAYMENT** The balance of the down payment will be paid on or before the Settlement Date by certified or cashier's check or by bank-wired funds. An assignment of funds shall not be used without prior written consent of Seller.

7. **NOTICES** ("notice" or "notify"). All notices required under this contract will be in writing and will be effective as of Delivery. For the purposes of computing time periods, the first day will be the day following Delivery and the time period will end at 9:00 p.m. on the Day specified. Written acknowledgement of receipt of notice is a courtesy, but not a requirement.

Seller: _____ / _____ Buyer: _____ / _____

8. **DELIVERY** (“delivery” or “delivered”) methods may include hand-carried, sent by professional courier service, by United States mail, by facsimile or by e-mail transmission.

A. Delivery is deemed to have occurred:

1. By hand; OR
2. By a professional courier service; OR
3. By United States mail, return receipt requested; OR
4. By Email and/or Facsimile OR
5. Acknowledged In writing by the recipient if any other method is used.

B. Deliveries will be sent to:

The Seller: _____

The Buyer: _____

Copies of any addenda, amendment and notices required by the Contract will also be provided to the Brokers or Broker’s Representative at the following e-mail address:

Listing Company email: _____

Selling Company email: _____

Any Delivery to the Broker or Broker’s Representative either principal shall OR shall not constitute Delivery.

No party to this Contract will refuse Delivery in order to delay or extend any deadline established in the Contract.

9. **SETTLEMENT** Seller and Buyer will make full settlement in accordance with the terms of this Contract (“Settlement”) on, or with mutual consent before, _____ (“Settlement Date”) except as otherwise provided in this Contract. Buyer selects: _____ (“Settlement Agent”) to conduct the Settlement. Either party may retain their own legal counsel. Buyer agrees to contact the Settlement Agent within **10** days after the Date of Ratification to schedule Settlement and to arrange for ordering the title exam and, if required, a survey.

10. **PROPERTY MAINTENANCE AND CONDITION** Except as otherwise specified herein, Seller will deliver the Property free and clear of trash and debris, broom clean and in substantially the same physical condition to be determined as of Contract Date OR Date of Home inspection OR Other: _____. Seller will have all Utilities in service through Settlement or as otherwise agreed. Buyer and Seller will not hold the Broker liable for any breach of this paragraph.

Buyer acknowledges, subject to Seller acceptance, that this Contract may be contingent upon home inspection(s) and/or other inspections to ascertain the physical condition of the Property.

This Contract is contingent upon inspections, Addendum[s] must be attached.

OR

Buyer accepts property is sold in **AS-IS CONDITION WITHOUT ANY INSPECTIONS**, or contingencies regarding the condition of the property, as of the date specified above.

11. **ACCESS TO PROPERTY** Seller will provide the Broker, Buyer, inspectors representing the Buyer and representatives of lending institutions for Appraisal purposes reasonable access to the Property to comply with this Contract. In addition, Buyer and/or Buyer’s representative will have the right to make a final inspection within **5** days prior to Settlement and/or occupancy, unless otherwise agreed to by Buyer and Seller.

Seller: _____ / _____ Buyer: _____ / _____

12. **UTILITIES WATER, SEWAGE, HEATING AND CENTRAL AIR CONDITIONING (check all that apply)**

Water Supply: Public Private Well Community Well
At Transfer Public Hookup Required Yes or Unknown
Sewage Disposal: Public Septic for #BR __ Community Septic
 Alternate Septic for # BR __
At Transfer Public Hookup Required Yes or Unknown
Water Heater: Oil Gas Elec. Other _____
Air Conditioning: Oil Gas Elec. Heat Pump Other _____ Zones _____
Heating: Oil Gas Elec. Heat Pump Other _____ Zones _____

13. **PERSONAL PROPERTY AND FIXTURES** See **ITEMS TO CONVEY ADDENDUM**.

The Property includes the following personal property and fixtures, if existing: exterior trees and shrubs, built-in heating and central air conditioning equipment, plumbing, and lighting fixtures, sump pump, attic, exhaust fans, storm windows, storm doors, screens, and installed wall-to-wall carpeting. All surface or wall mounted electronic components/devices **DO NOT** convey. Unless otherwise agreed to in writing; all wall brackets and/or mounts **DO** convey. Any component, bracket or mount removal requiring wall repair shall be corrected by Seller (including paint).

LEASED ITEMS Any leased items, systems or service contracts (including, but not limited to, fuel tanks, water treatment systems, lawn contracts, security system monitoring, and satellite contracts) **DO NOT** convey absent an express written agreement by Buyer and Seller. The following is a list of the leased items within the Property:

14. **HOME WARRANTY** Yes OR No.

Home Warranty Policy selected by: Buyer OR Seller and paid for and provided at Settlement by: Buyer OR Seller. Cost not to exceed \$ _____.
Warranty provider to be _____

15. **FINANCING APPLICATION** If this Contract is contingent on financing, Buyer will make written application for the Specified Financing and ANY LENDER REQUIRED PROPERTY/FLOOD INSURANCE no later than 7 days after the Date of Ratification. Buyer grants permission for the Selling Company and the lender to disclose to the Listing Company and the Seller general information available about the progress of the loan application and the loan process. If Buyer fails to settle except due to any Default by Seller, then the provisions of the DEFAULT paragraph shall apply. Seller agrees to comply with reasonable lender requirements, except as otherwise provided in the LENDER REQUIRED REPAIRS paragraph of the applicable financing contingency addendum.

16. **FINANCING** Mortgage rates and associated charges vary among financial institutions and fluctuate according to market conditions. Buyer has the opportunity to select the lender and the right to negotiate terms and conditions of the financing subject to the terms of this Contract. The financing may require substantial lump sum (balloon) payments on the due dates. Buyer has not relied upon any representations regarding the future availability of mortgage money or interest rates for the refinancing of any such lump sum payments.

17. **ALTERNATE FINANCING** Buyer may substitute alternative financing and/or an alternate lender for Specified Financing provided: (a) Buyer is qualified for alternative financing; (b) there is no additional expense to Seller; (c) the Settlement Date is not delayed; and (d) if **Buyer fails to settle except due to any Default by Seller, then the provisions of the DEFAULT paragraph shall apply.**

Seller: _____ / _____ Buyer: _____ / _____

18. **BUYER'S REPRESENTATIONS** Buyer will OR will not occupy the Property as Buyer's principal residence. **Unless specified in a written contingency, neither this Contract nor the financing is dependent or contingent on the sale and settlement or lease of other real property.** The Selling Company is OR is not authorized to disclose to the Listing Company, Seller, and any lender the appropriate financial or credit information statement provided to the Selling Company by Buyer. Buyer acknowledges that Seller is relying upon all of Buyer's representations, including without limitation, the accuracy of financial or credit information given to Seller, Broker, or the lender by Buyer.
19. **DAMAGE OR LOSS** The risk of damage or loss to the Property by fire, act of God, or other casualty remains with Seller until the execution and delivery of the deed of conveyance to Buyer at Settlement.
20. **TITLE** The title report and survey, if required, will be ordered promptly and, if not available on the Settlement Date, then Settlement may be delayed for up to **10** business days to obtain the title report and survey after which this Contract, at the option of Seller, may be terminated and the Deposit will be refunded in full to Buyer according to the terms of the DEPOSIT paragraph. Fee simple title to the Property and everything that conveys with it will be sold free of liens except for any loans assumed by Buyer. Title is to be good, marketable, and insurable by a licensed title insurance company with no additional risk premium. Title may be subject to commonly acceptable easements, covenants, conditions, and restrictions of record. Otherwise, Buyer may declare this Contract void, unless the defects are of such character that they may be remedied within **30** days beyond the Settlement Date. In case action is required to perfect the title, such action must be taken promptly by Seller at Seller's expense. The Broker is hereby expressly released from all liability for damages by reason of any defect in the title. Seller will convey the Property by general warranty deed. (West Virginia). Seller will sign such affidavits, lien waivers, tax certifications, and other documents as may be required by the lender, title insurance company, Settlement Agent, or government authority, and authorizes the Settlement Agent to obtain pay-off or assumption information from any existing lenders. The manner of taking title may have significant legal and tax consequences. Buyer is advised to seek the appropriate professional advice concerning the manner of taking title. Unless otherwise agreed to in writing, Seller will pay any special assessments and will comply with all orders or notices of violations of any county or local authority, condominium unit owners' association, homeowners' or property owners' association or actions in any court on account thereof, against or affecting the Property on the Settlement Date.
21. **POSSESSION DATE** Unless otherwise agreed to in writing between Seller and Buyer, Seller will give possession of the Property at Settlement, including delivery of keys, if any. If Seller fails to do so and occupies the Property beyond Settlement, Seller will be a tenant at sufferance of Buyer and hereby expressly waives all notice to quit as provided by law. Buyer will have the right to proceed by any legal means available to obtain possession of the Property. Seller will pay any damages and costs incurred by Buyer including reasonable attorney fees.
22. **FEES** Fees for the preparation of the Deed, that portion of the Settlement Agent's fee billed to Seller, costs of releasing existing encumbrances, Seller's legal fees and any other proper charges assessed to Seller will be paid by Seller. Fees for the title exam (except as otherwise provided), survey, recording including those for any purchase money trusts and that portion of the Settlement Agent's fee billed to Buyer, Buyer's legal fees, and any other proper charges assessed to Buyer will be paid by Buyer. Fees to be charged will be reasonable and customary for the jurisdiction in which the Property is located.
23. **BROKER'S FEE** Seller irrevocably instructs the Settlement Agent to pay the Broker compensation ("Broker's Fee") at Settlement as set forth in the listing agreement and to disburse the compensation offered by the Listing Company to the Selling Company in writing as of the Contract Date and the remaining amount of Broker's compensation to the Listing Company.
24. **ADJUSTMENTS** Rents, taxes, water and sewage charges, front foot benefit and house connection charges, condominium unit owners' association, homeowners' and/or property owners' association regular periodic assessments (if any) and any other operating charges, are to be adjusted to the day of Settlement. Any heating or cooking fuels remaining in supply tank(s) at Settlement will become the property of the Buyer, unless leased.

Seller: _____ / _____ Buyer: _____ / _____

25. **TAXES, GENERAL AND SPECIAL**, are to be adjusted according to the certificate of taxes issued by the Settlement, whether assessments have been levied or not, will be paid by Seller or allowance made at Settlement. If a loan is assumed, interest will be adjusted to the Settlement Date and Buyer will reimburse Seller for existing escrow accounts, if any.

26. **ATTORNEY'S FEES**

- A. If any Party breaches this Agreement and a non-breaching Party retains legal counsel to enforce its rights hereunder, the non-breaching Party shall be entitled to recover against the breaching Party, in addition to any other damages recoverable against any breaching Party, all of its reasonable Legal Expenses incurred in enforcing its rights under this Agreement, whether or not suit is filed, and in obtaining, enforcing and/or defending any judgment related thereto. Should any tribunal of competent jurisdiction determine that more than one party to the dispute has breached this Agreement, then all such breaching Parties shall bear their own costs, unless the tribunal determines that one or more parties is a "Substantially Prevailing Party", in which case any such Substantially Prevailing Party shall be entitled to recover from any of the breaching parties, in addition to any other damages recoverable against any breaching Party, all of its reasonable Legal Expenses incurred in enforcing its rights under this Agreement, whether or not suit is filed, and in obtaining, enforcing and/or defending any judgment related thereto.
- B. In the event a dispute arises resulting in the Broker (as used in this paragraph to include any agent, licensee, or employee of the Broker) being made a party to any litigation by the Buyer or by the Seller, the Parties agree that the Party who brought the Broker into litigation shall indemnify the Broker for all of its reasonable Legal Expenses incurred, unless the litigation results in a judgment against the Broker.

27. **PERFORMANCE** Delivery of the required funds and executed documents to the Settlement Agent will constitute sufficient tender of performance. Funds from this transaction at Settlement may be used to pay off any existing liens and encumbrances, including interest, as required by lender(s) or lienholders.

28. **DEFAULT** If Buyer fails to complete Settlement for any reason other than Default by Seller, at the option of Seller, the Deposit may be forfeited as liquidated damages (not as a penalty) in which event Buyer will be relieved from further liability to Seller. If Seller does not elect to accept the Deposit as liquidated damages, the Deposit may not be the limit of Buyer's liability in the event of a Default. If the Deposit is forfeited, or if there is an award of damages by a court or a compromise agreement between Seller and Buyer, the Broker may accept and Seller agrees to pay the Broker one-half of the Deposit in lieu of the Broker's Fee, (provided Broker's share of any forfeited Deposit will not exceed the amount due under the listing agreement).

If Seller fails to perform or comply with any of the terms and conditions of this Contract or fails to complete Settlement for any reason other than Default by Buyer, Buyer will have the right to pursue all legal or equitable remedies, including specific performance and/or damages. If either Seller or Buyer refuses to execute a release of Deposit ("Release") when requested to do so in writing and a court finds that such party should have executed the Release, the party who so refused to execute the Release will pay the expenses, including, without limitation, reasonable attorney's fees, incurred by the other party in the litigation. Seller and Buyer agree that no Escrow Agent will have any liability to any party on account of disbursement of the Deposit or on account of failure to disburse the Deposit, except only in the event of the Escrow Agent's gross negligence or willful misconduct.

The parties further agree that the Escrow Agent will not be liable for the failure of any depository in which the Deposit is placed and that Seller and Buyer each will indemnify, defend and save harmless the Escrow Agent from any loss or expense arising out of the holding, disbursement or failure to disburse the Deposit, except in the case of the Escrow Agent's gross negligence or willful misconduct. If either Buyer or Seller is in default, then in addition to all other damages, the defaulting party will immediately pay the costs incurred for the title examination, Appraisal, survey and the Broker's Fee in full.

Seller: _____ / _____ Buyer: _____ / _____

29. **OTHER DISCLOSURES** Buyer and Seller should carefully read this Contract to be sure that the terms accurately express their respective understanding as to their intentions and agreements. The Broker can counsel on real estate matters, but if legal advice is desired by either party, such party is advised to seek legal counsel. Buyer and Seller are further advised to seek appropriate professional advice concerning the condition of the Property or tax and insurance matters. The following provisions of this paragraph disclose some matters which the parties may investigate further. These disclosures are not intended to create a contingency. Any contingency must be specified by adding appropriate terms to this Contract. The parties acknowledge the following disclosures.

- A. **PROPERTY CONDITION** Various inspection services and home warranty insurance programs are available. The Broker is not advising the parties as to certain other issues, including but not limited to: water quality and quantity (including but not limited to, lead and other contaminants); sewer or septic; soil condition; flood hazard areas; possible restrictions of the use of the Property due to restrictive covenants, zoning, subdivision or environmental laws, easements or other documents; airport or aircraft noise; planned land use; roads or highways; and construction materials and/or other hazardous materials, including but not limited to flame retardant treated plywood (FRT), radon, urea formaldehyde foam insulation (UFFI), mold, polybutylene pipes, synthetic stucco (EIFS), underground storage tanks, defective Chinese drywall, asbestos and lead-based paint. Information relating to these issues may be available from appropriate government authorities.
- B. **LEGAL REQUIREMENTS** All contracts for the sale of real property must be in writing to be enforceable. Upon ratification and Delivery, this Contract becomes a legally binding agreement. Any changes to this Contract must be made in writing for such changes to be enforceable.
- C. **BROKER** Buyer and Seller acknowledge that the Broker is being retained solely as a real estate agent and not as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, mold or air quality expert, home inspector or other professional service provider. The Broker may from time to time engage in the general insurance, title insurance, mortgage loan, real estate settlement, home warranty and other real estate-related businesses and services. Therefore, in addition to the Broker's Fee specified herein, the Broker may receive compensation related to other services provided in the course of this transaction pursuant to the terms of a separate agreement/disclosure.
- D. **WEST VIRGINIA WITHHOLDING FOR SALE OF REAL PROPERTY BY NONRESIDENT** In connection with the sale of a nonresident's property, West Virginia Code 11-21-71b requires the settlement attorney to withhold funds from net proceeds. A nonresident income tax return may be required in order to report the sale and determine the total tax due or to be refunded. It is recommended Sellers contact their accountant and/or attorney to determine the tax implications and filing procedures. The West Virginia State Tax Department can be contacted at 304-558-3333 for further information. A copy of the code may be obtained at the following website: <http://www.wva.state.wv.us/wvtax/westvirginiastatetaxdepartment.aspx>
- E. **IRS/FIRPTA - WITHHOLDING TAXES FOR FOREIGN SELLER.** If Seller is a Foreign Person, Buyer may be required to withhold and pay to the Internal Revenue Service (IRS) up to fifteen percent (15%) of the Sales Price on behalf of the Seller and file an IRS form which includes both Seller and Buyer tax identification numbers. The Parties agree to cooperate with each other and Settlement Agent to effectuate the legal requirements. If Seller's proceeds are not sufficient to cover the withholding obligations under FIRPTA, Seller may be required to pay at Settlement such additional certified funds necessary for the purpose of making such withholding payment.
- F. **PROPERTY INSURANCE** Obtaining property insurance is typically a requirement of the lender in order to secure financing. Buyer will make written application for any lender required property/flood insurance no later than 7 days after ratification. Insurance rates and availability are determined in part by the number and nature of claims and inquiries made on property's policy as well as the number and nature of claims made by a prospective Buyer. Property insurance has become difficult to secure in some cases. Seller should consult an insurance professional regarding maintaining and/or terminating insurance coverage.

Seller: _____ / _____ Buyer: _____ / _____

G. **BUYER** hereby expressly states and acknowledges that they have received a copy of the Seller's Voluntary Property Condition Disclosure/Disclaimer Statement, if provided.

H. **AVOID WIRE FRAUD** All consumers are to communicate **DIRECTLY** with the closing attorney for payment and distribution of funds.

30. **BUYER DUE DILIGENCE**

A. **BUYER** expressly states that, with the exception of any written warranties which may exist, they have not relied on any statements actually made by any Seller, Real Estate Agent or Broker, who may be involved in this transaction or upon any one of them with regards to the:

1. Fitness of the real estate and its improvements for the purpose for which it is being purchased; AND
2. Structural integrity of any or all of the improvements upon said real estate; AND
3. Absence of defects in real estate and/or the improvements upon it.

B. **BUYER** should exercise a due diligence obligation with respect to information on any sexual offenders registered under Article 12 of Chapter 15 of the West Virginia Code. Such information may be obtained by contacting the local police department or the West Virginia State Police at www.wvstatepolice.com or (304) 746-2100.

C. **BUYER** should exercise a due diligence obligation with respect to information on school systems by contacting the local Board of Education and on crime statistics by contacting the local police department.

D. **BUYER** has a due diligence obligation to obtain a copy of the Covenants and Restrictions on use of the property. This information can be obtained from the settlement agent, the homeowners' and/or property owners' association, or the Court House.

E. **BUYER** acknowledges it is difficult to determine the amount of the real estate taxes for the upcoming year, especially if the property has been rented, vacant or is new construction. If the property was not owner-occupied on July 1, the taxes could more than double for the upcoming calendar year. The tax bill is mailed in late July, approximately 1 year after assessment, and is the tax bill for the current calendar year. Payment liability for increases in tax levies or classification changes is that of the Buyer.

F. **BUYER** should exercise a due diligence obligation with respect to information regarding, but not limited to:

- Internet Access
- Property and surrounding land use and zoning
- Community Development Authority Zones
- Covenants recorded in land records
- Home Warranty
- Historic Districts and Properties
- Road Upgrades and Rerouting
- Stormwater Management locations
- Flood Zones/Insurance
- Wastewater Systems and Maintenance
- Public Service Connection Requirement
- Solar Panels
- Conservation areas/easements
- Tax districts
- Insurance costs
- Airport upgrades and noise zones
- Title Insurance
- Occupancy Permits
- Utility Easements
- Mold

31. **ASSIGNABILITY** This Contract may not be assigned without the written consent of Buyer and Seller. If Buyer and Seller agree in writing to an assignment of this Contract, the original parties to this Contract remain obligated hereunder until Settlement.

Seller: _____ / _____ Buyer: _____ / _____

32. **VOID CONTRACT** If this Contract becomes void and of no further force and effect, without Default by either party, both parties will immediately execute a release directing that the Deposit be refunded in full to Buyer according to the terms of the DEPOSIT paragraph.
33. **PRIVACY ACT** Seller and Buyer authorize their respective attorneys and the settlement agent to furnish to Listing Broker and Selling Broker copies of the final HUD-1 settlement statement for the transaction. This permission shall also include the ALTA statement or like instrument
34. **ARBITRATION** Nothing in this Contract shall preclude arbitration under the Code of Ethics and Standards of Practice of the National Association of REALTORS.
35. **DEFINITIONS**
- A. "Appraisal" means a written appraised valuation of the Property by licensed WV Appraiser.
 - B. "Day(s)" or "day(s)" means calendar day(s) unless otherwise specified in this Contract.
 - C. All Reference to time of day shall refer to time of day in the Eastern Time Zone of the United States.
 - D. For the purpose of computing time periods, the first Day will be the Day following Delivery and the time period will end at 9 p.m. on the Day specified. If the Settlement Date falls on a Saturday, Sunday, or legal holiday, then the Settlement will be on the prior business day.
 - E. "Date of Ratification" means the date of final acceptance in writing by Buyer and Seller, of all the terms of this Contract (not the date of expiration or removal of any contingencies).
 - F. NOTICES ("notice" or "notify") means unilateral communication from one party to another.
 - G. For "Delivery" definitions, see Paragraph 8.
 - H. "Specific Financing" means the loan type(s) and amount(s), if any, specified in the PRICE AND FINANCING paragraph.
 - I. The masculine includes the feminine and the singular includes the plural.
 - J. "Possession Date" – See POSSESSION DATE paragraph.
 - K. "Legal Expenses" means attorney fees, court costs, and litigation expenses, if any, including, but not limited to, expert witness fees and court reporter fees.
36. **MISCELLANEOUS** This Contract may be signed in one or more counterparts, each of which is deemed to be an original, and all of which together constitute one and the same instrument. Documents obtained via facsimile machines will also be considered as originals. Typewritten or handwritten provisions included in this Contract will control all pre-printed provisions that are in conflict.
37. **ENTIRE AGREEMENT** This Contract will be binding upon the parties, and each of their respective heirs, executors, administrators, successors and permitted assigns. The provisions not satisfied at Settlement will survive the delivery of the deed and will not be merged therein. This contract, unless amended in writing, contains the final and entire agreement of the parties and the parties will not be bound by any terms, conditions, oral statements, warranties, or representations not herein contained. The interpretation of this Contract will be governed by the laws of the jurisdiction where the Property is located.
38. **EXPIRATION OF OFFER** Seller must respond to this offer on or before _____ or this offer is considered void and the Buyer's deposit will be returned.

Seller: _____ / _____ Buyer: _____ / _____

39. **FORMS** If ratified and attached, are made a part of this Contract. (This list is not inclusive of all addenda that may need to be attached).

- Yes West Virginia Notice of Agency
- Yes Disclosed Dual Agency
- Yes Property Disclosure/Disclaimer
- Yes Applicable Financing Addendum
- Yes 1031 Exchange Addendum or other investment instrument
- Yes FHA Home Inspection Notice
- Yes Lead Base Paint Disclosure
- Yes Contingencies Addendum

Other: _____

SELLER:

BUYER:

Signature Date

Signature Date

Signature Date

Signature Date

Date of Ratification (see DEFINITIONS)

For informational purposes only:

Listing Company's Name and Address:

Selling Company's Name and Address:

Office # _____

Office # _____

Fax # _____

Fax # _____

MLS Broker Code and Office ID _____

MLS Broker Code and Office ID _____

Agent Name _____

Agent Name _____

Real Estate License Number & Jurisdiction _____

Real Estate License Number & Jurisdiction _____

Agent MLS ID# _____

Agent MLS ID# _____

Team Leader/Agent _____

Team Leader/Agent _____

Email Address _____

Email Address _____



FOR WEBSITE

CONTINGENCIES ADDENDUM

This Addendum is made on _____, to a Sales Contract dated _____, between _____ ("Buyer") and _____ ("Seller"), for the purchase and sale of _____ ("Property").

The following provisions, if initialed by the parties, are incorporated into and made a part of the Contract upon Ratification:

BY SELECTING 1.A OR 1.B BELOW, THE SELLER IS RELIEVED OF ANY INSPECTION REMEDIATION REQUIREMENT. Contingencies 1A and 1B do not supersede lender required repairs, if any, referenced in any financing addendum attached.

1. **A. "AS IS" WITHOUT ANY INSPECTION(S)**

Property is being sold in its existing condition without any inspection(s) or _____ contingencies. Seller will make no repairs and will convey Property without any representations or warranties, either expressed or implied.

B "AS IS" WITH ANY INSPECTION(S) AND RIGHT TO TERMINATE

The Property is sold in "AS IS" condition as of the Ratification Date of Residential Sales Contract. Buyer, at Buyer's expense, may have the Property inspected. In the event Buyer is dissatisfied with the results of any inspection(s), Buyer, upon written notice to Seller, given within _____ Days from the Date of Ratification, shall have the unconditional right to terminate the Contract. If Buyer elects to terminate the Contract, the Contract shall become null and void, and Deposit(s) shall be disbursed in accordance with the Deposit paragraph of the Contract. **If Buyer fails to have inspection(s) performed or fails to submit written notice of termination within the time period specified, Buyer shall have no right thereafter to terminate the Contract and the Contract shall remain in full force and effect.**

Seller shall make the Property accessible for such inspection(s). Neither Buyer, nor any agent or contractor(s) of Buyer, shall in any way excavate, penetrate, or otherwise damage any part of the Property without the prior written consent of Seller nor shall any furnishings, boxes, or personal property belonging to Seller be moved or relocated unless absolutely necessary in connection with the inspection(s). If the Property is part of a condominium, Buyer will be given access to the common areas to perform the inspection(s). Buyer and Seller shall have the right to be present during the inspection(s), and Buyer shall give Seller reasonable advance notice of the date and time of any inspection(s).

If Buyer or Buyer's agents or contractors damage the Property during any inspection(s), Buyer shall be responsible for all costs incurred in correcting such damage. Buyer's responsibility for all costs incurred in correcting any damage shall survive termination of the Contract.

2. **INDIVIDUAL INSPECTION CONTINGENCIES** This Contract is contingent upon the satisfaction of the Inspections set forth below ("Inspection Contingencies") until the expiration of the time periods for such Inspections set forth below from Date of Ratification ("Deadlines").

If Buyer fails to obtain an Inspection, fails to deliver a copy of Inspection deficiencies to Seller, fails to deliver Inspection addendum or notice voiding Contract prior to Inspection deadline, **the Inspection Contingency will expire and this Contract will remain in full force and effect with no Inspection Contingencies.**

Seller: _____ / _____ Buyer: _____ / _____

A. "AS IS" HOME INSPECTION AND RIGHT TO TERMINATE

The Property is sold in "AS IS" condition as of the Ratification Date of Residential Sales Contract. Buyer, at Buyer's expense, may have the Property inspected by a West Virginia Licensed Inspector. In the event Buyer is dissatisfied with the **results of home inspection**, Buyer, upon written notice to Seller given within _____ Days from the Date of Ratification, shall have the unconditional right to terminate the Contract. If Buyer elects to terminate the Contract, the Contract shall become null and void, and Deposit(s) shall be disbursed in accordance with the Deposit paragraph of the Contract. **If Buyer fails to have a home inspection performed or fails to submit written notice of termination within the time period specified, Buyer shall have no right thereafter to terminate the Contract and the Contract shall remain in full force and effect.**

Seller shall make the Property accessible for such home Inspection. Neither Buyer, nor any agent or contractor(s) of Buyer, shall in any way excavate, penetrate or otherwise damage any part of the Property without the prior written consent of Seller nor shall any furnishings, boxes, or personal property belonging to Seller be moved or relocated unless absolutely necessary in connection with the Inspection. If the Property is part of a condominium, Buyer will be given access to the common areas to perform the Inspection. Buyer and Seller shall have the right to be present during the Inspection, and Buyer shall give Seller reasonable advance notice of the date and time of home Inspection.

If Buyer or Buyer's agents or contractors damage the Property during the Inspection, Buyer shall be responsible for all costs incurred in correcting such damage. Buyer's responsibility for all costs incurred in correcting any damage shall survive termination of the Contract.

B. HOME INSPECTION This Contract is contingent until 9 p.m. ____ days after Date of Ratification upon Inspection of the Property by a WV Licensed Home Inspector and/or other WV Licensed Inspector at the Buyer's discretion and expense. The Seller will have all utilities in service at the time of Inspection.

The Contingency will terminate at the deadline unless by the deadline the Buyer has delivered to the Seller a copy of the applicable section(s) of the Inspection report(s) together with either:

A written addendum listing the specific existing deficiencies. The Seller may, at the Seller's option, within ____ days after Delivery of the addendum, elect in writing to remedy the deficiencies prior to settlement. If the Seller does not elect to make the repairs, or makes a counter offer, or fails to respond, the Buyer will have ____ days after Delivery of Seller's counter offer to accept the counter offer, or accept the property in present condition, or void this Contract.

C. RADON TESTING The U.S. Environmental Protection Agency (EPA) has found levels of naturally occurring radon gas in some areas, which exceed the EPA suggested guidelines. This Contract is contingent until 9 p.m. ____ days after the Date of Ratification upon the Buyer, at the Buyer's discretion and expense, having the Property inspected for the presence of radon by a testing firm licensed in the state of West Virginia and listed with the U.S. Environmental Protection Agency (EPA), National Radon Safety Board ("NRSB") or The National Environmental Health Association (NEHA), using an EPA approved testing method.

Testing device to be placed and retrieved by an EPA, or NRSB listed technician.

Seller: _____ / _____ Buyer: _____ / _____

This contingency will terminate at the Deadline unless by the Deadline the Buyer has delivered to the Seller a copy of the radon testing report which confirms the presence of radon that equals or exceeds the action level established by the EPA together with either:

A written addendum requiring the Seller at Seller's expense prior to settlement to address the radon condition by contracting with an EPA, NRSB, or NEHA listed remediation firm licensed in the State of West Virginia to reduce the presence of radon below the action level established by the EPA and by providing the Buyer with written re-test results performed by a testing firm confirming such reduction of radon. The Seller may at the Seller's option, within ____ days after delivery of the addendum, elect in writing to remedy the condition prior to settlement;

If the Seller does not elect to make the repairs, or makes a counter offer, the Buyer will have ____ days after Delivery of Seller's counter offer to accept the counter offer, or accept the property in present condition, or void this Contract.

D. **MOLD INSPECTION** Mold inspection is to be performed within ____ days of Contract ratification at the Buyer's expense. Mold contaminants may exist in the property of which the Broker/Agents are unaware. Broker/Agents are **NOT** experts in the field of mold contaminants.

E. **PRIVATE WELL**

Well. If the property is on private well, the **Buyer, at Buyer's expense** OR **Seller, at Seller's expense** will furnish the Buyer, on or before Settlement, with test results dated not more than ____ days prior to Settlement indicating no bacteria from the appropriate local government authority and/or private company licensed to perform such tests.

Remediation. If the well is found defective or substandard, the Seller will take appropriate remedial action at the Seller's expense. If the Seller does not elect to make the repairs, or makes a counter offer, the Buyer will have ____ days after Delivery of Seller's counter offer to accept the counter offer, or accept the property in present condition, or void this Contract.

F. **SEPTIC CONTINGENCY**

Buyer[s]. Some lenders or loan programs may require certain Septic System tests as a condition for approval of financing. If the Buyer is purchasing the Property with a loan, it is the Buyer's responsibility to determine what septic inspection(s) lender may require and date(s) such report(s) are due to lender.

1. **Alternative System Maintenance Contract.** Seller does **OR** does not have a maintenance contract. If Seller does have a maintenance contract, Seller will provide a copy to Buyer within 15 Days after the Date of Ratification. Maintenance contract shall (subject to contractor approval) **OR** **shall not convey** to Buyer.

2. **Septic Inspection Contingency**

Inspection Period. This Contract is contingent ("Septic Inspection

Seller: _____ / _____ Buyer: _____ / _____

Contingency”) until 9 p.m. ____ Days after the Date of Ratification (“Septic Inspection Deadline”). Buyer at Buyer's expense and sole risk of damage to Property **OR** Seller at Seller's expense and sole risk of damage to Property shall select and retain a West Virginia licensed and insured septic system installer, operator, onsite soil evaluator or professional engineer, or local municipality to inspect the private conventional on-site sewage system or private alternative on-site sewage system. Prior to Septic Inspection, Seller will remove any landscaping, personal property or improvement that impedes the Septic Inspection. If, for any reason, such impediments are not removed, Septic Inspection Deadline will be extended for an additional ____ Days.

Such Septic Inspection shall include the following inspections to be conducted (check all that apply):

YES **Dye testing**

YES **Visual inspection of drain field surface with rod probing**

YES **Septic to be pumped**

YES **Visual inspection of distribution box and all tanks**

YES **Camera inspection of septic tank and lines**

- a. In the event Seller does not Deliver the **Septic Inspection Report** (a summary of the condition of the system with inspection procedures, conditions, photos, notes and suggestions), Buyer may prior to the Septic Inspection Deadline: (i) order a Septic Inspection at Buyer’s expense and Buyer’s sole risk of damage to Property and the Septic Inspection Deadline shall be extended for an additional ____ Days; or (ii) Deliver Notice to Seller voiding the Contract; or (iii) pursue all available legal remedies.
- b. Remediation. If the septic is found defective or substandard, the Seller will take appropriate remedial action at the Seller's expense. If the Seller does not elect to make the repairs, or makes a counter offer, the Buyer will have ____ Days after Delivery of Seller’s counter offer to accept the counter offer, or accept the property in present condition, or void this Contract.

G. **WOOD DESTROYING INSECT INSPECTION** The Buyer at Buyer's expense **OR** Seller at Seller's expense, will furnish a written report from a WV Licensed Pest Control Firm dated not more than 30 days prior to Settlement showing that all dwelling(s) and/or garage(s) within the Property (excluding fences or shrubs not abutting garage(s) or dwelling(s) are free of visible evidence of active termites and other wood-destroying insects, and free from visible insect damage. Any extermination and repairs for damage identified in the inspection report will be made at Seller's expense.

- a. If the Seller does not elect to make the repairs, or makes a counter offer, the Buyer will have ____ Days after Delivery of Seller’s counter offer to accept the counter offer, or accept the property in present condition, or void this Contract.

Seller: _____ / _____ Buyer: _____ / _____

3. **SALE OF BUYER'S PROPERTY AND KICK-OUT** This Contract is contingent on the sale of the Buyer's Property located at: _____ until 9 p.m. on _____, at which time this Contingency may be extended by mutual written consent of the parties, satisfied by Buyer per sub-paragraph A or B; or this Contract will be null and void and the deposit returned to Buyer after releases are executed by all parties.

Buyer's property to be listed exclusively for sale with _____ (Agency) from _____ to _____ and is to be competitively priced according to a fair market valuation.

As proof of the good faith effort to sell the Property, Buyer will furnish Seller within 5 days of this Contract Ratification Date with a copy of the MLS listing entry or similar evidence the property is marketed for sale; or Seller may give Notice to void this Contract. Written release of the Buyer's Deposit shall then be executed by all parties, pursuant to which the Deposit shall be returned to the Buyer.

Seller retains the right to continue to show the Property for sale during the Contingency period stated above. Upon receipt of another ratified Contract, Seller shall notify Buyer in writing and Buyer shall have _____ hours from receipt of Notice to produce written proof of ability to consummate this Contract. Buyer may satisfy the contingency, or remove contingency by:

A. Delivering to Seller a copy of the ratified Contract for the sale of Buyer's Property with evidence that all contingencies have been removed or waived; other than financing and appraisal contingencies. **This Contract shall remain contingent on the settlement of Buyer's property.** If at any time after Date of Ratification the Contract for sale of Buyer's property becomes void, Buyer shall immediately Deliver Notice to Seller together with evidence of such voiding, at which time either Seller or Buyer may declare this Contract void by Delivering Notice to the other party. Nothing herein shall prohibit parties from mutually agreeing to extend this contingency under acceptable terms to both parties.

OR

B. Delivering Notice to Seller with evidence of funds necessary for Buyer to perform under the terms of the Sales Contract; OR A favorable loan opinion letter verifying the Buyer's financial ability to consummate the Contract without the necessity of selling Buyer's Property and copies of any other applicable documentation.

Notice required to be given by parties shall be in writing and will be effective when notice is either hand or Electronically Delivered per Contract paragraph 8 to the Buyer, Buyer's/Selling Agent, Listing Agent, or Seller.

4. **SALE/SETTLEMENT ON BUYER'S PROPERTY** This Contract is contingent on full and complete sale and settlement of Buyer's Property located at _____ on or before _____. Within _____ days of ratification of this Contract Buyer will furnish Seller and/or Listing Agent a copy of a ratified Contract of sale on the Buyer's above referenced Property. Said Contract shall contain no contingencies except for financing and appraisal. If Buyer's Property does not go to Settlement on or before _____, this Contract may be extended by mutual written consent of the Parties or declared null and void by the Seller.

Seller: _____ / _____ Buyer: _____ / _____

If the Seller voids this Contract, all parties shall then execute a written release of the Buyer's Deposit, pursuant to which the Deposit shall be returned to the Buyer.

5. **"COINCIDING" SETTLEMENTS** Settlement of this Contract is contingent upon the Settlement of the Contract for the Sale of the:

Buyer's property located at _____.

Seller's property located at _____.

Settlement under this Contract may not be delayed more than ____ days after the Settlement Date specified in this Contract without the parties' written consent. If a further delay is required to obtain coinciding settlements and the parties do not agree, this Contract will become void. If after the date of Ratification, the Contract for the sale of the Buyer's Property becomes void, the parties will immediately Deliver Notice to all parties, together with evidence of such voiding, at which time either the Seller or the Buyer may declare this Contract void by Delivering Notice to the other party.

6. **SELLER PURCHASING ANOTHER PROPERTY** This Contract is contingent until 9 p.m. ____ days after the date of Ratification upon the Seller delivering a Notice to the Buyer that:
- A. The Seller has entered into a ratified Contract to purchase another property; OR
 - B. The Seller removes this Contingency; OR
 - C. A notice voiding the Contract.

7. **BACK-UP CONTRACT** This Contract is first back-up to another Contract dated _____ between the Seller and _____ ("Buyer") and will go into full force and effect as the primary Contract immediately upon Notice to the Buyer that the first offer is no longer in effect. This back-up Contract is voidable by the Buyer by delivering Notice to the Seller at any time before receipt of Notice from the Seller that it has become the primary Contract.

If the Buyer voids this Contract or the primary Contract settles, all parties shall sign the appropriate releases, the Deposit shall be refunded to the Buyer and the parties shall have no further liability under this Contract. Except as modified by this addendum, all of the terms and provisions of this Contract are hereby expressly ratified and confirmed and shall remain in full force and effect.

8. **PRE-QUALIFICATION LETTER** This Contract is contingent until 9 p.m. ____ days after the date of Ratification upon the Buyer delivering to the Seller a pre-qualification letter from a lender stating that the financing described in this Contract is available to the Buyer. At any time after the date of ratification but prior to delivery to the Seller of the pre-qualification letter, the Seller may, with Notice to the Buyer, declare this Contract void.
9. **GIFT LETTER** This Contract is contingent until 9 p.m. ____ days after the date of Ratification upon the Buyer providing a gift letter and necessary documentation satisfactory to the lender. At any time after the date of Ratification but prior to Delivery to the Seller of the gift letter, the Seller may, with Notice to the Buyer, declare this Contract void.
10. **NON-LENDER THIRD PARTY APPROVAL** This Contract is contingent upon the approval of _____ by 9 p.m. ____ Days after the date of Ratification. If Notice of Disapproval is not delivered by the other party by the Deadline, this contingency will terminate, and this Contract will remain in full force and effect. No Notice of Approval is required. If Notice of Disapproval is delivered by the Deadline, this Contract will become void.

Seller: _____ / _____ Buyer: _____ / _____

11. **SURVEY** Permission is granted for a Location Survey **OR** a Perimeter Survey on the Property to be paid by the Buyer **OR** Seller.

12. **PROPERTY RESTRICTIONS** Buyer has _____ calendar days to exercise a due diligence obligation with respect to information regarding, but not limited to HOA (Home Owners Association) documents and bylaws, possible covenants and deed restrictions, or said obligation is considered satisfied and Contract remains in full force and effect. Buyer may void this Contract within the above prescribed calendar days, if Buyer finds related documents unsatisfactory.

13. **REAL ESTATE LICENSED PARTIES** The Seller is a real estate licensee in _____. The Buyer is a real estate licensee in _____.

14. **GENERAL** This Contract is contingent until 9 p.m. ____ days after the date of Ratification upon:

_____.

Seller:

Buyer:

Signature Date

Signature Date

Signature Date

Signature Date