

**BUY - SELL AGREEMENT
(Including Earnest Money Receipt)**



The use of this form is for REALTOR® members only (members of the Montana Association of REALTORS®) and cannot be used by any other party for any purpose. Use of these forms by other parties may result in legal action by the Montana Association of REALTORS®.

1 **This Agreement stipulates the terms of sale of this property. Read carefully before signing.**

2 **This is a legally binding contract. If not understood, seek competent advice.**

3 _____ Montana, (date) _____,

4 _____,

5 as joint tenants with rights of a survivorship, tenants in common, single in his/her own right,

6 Other _____ (hereinafter called "Buyer") agrees to purchase, and the

7 Seller agrees to sell the following described real property (hereinafter referred to as "Property") commonly known

8 as _____

10 in the City of _____, County of _____,

11 Montana, legally described as: _____

15 TOGETHER with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other
16 appurtenances thereto, and all improvements thereon. All existing permanently installed fixtures and fittings that are
17 attached to the Property are included in the purchase price, such as electrical, plumbing and heating fixtures, wood,
18 pellet, or gas stoves, built-in appliances, screens, storm doors, storm windows, curtain rods and hardware, attached floor
19 coverings, T.V. antennas, satellite dish, hot tub, air cooler or conditioner, garage door openers and controls, fireplace
20 inserts, mailbox, and trees and shrubs and perennials attached to the Property, attached buildings or structures, unless
21 otherwise noted below:

22 _____

26 **PERSONAL PROPERTY:** The following items of personal property, free of liens and without warranty of condition,
27 are included and shall be transferred by bill of sale: _____

32 **LEASED/RENTED PERSONAL PROPERTY:** The following personal property is leased/rented: water softener

33 water conditioner propane tank satellite dish satellite control alarm system other _____

34 _____

35 Buyer is responsible for making arrangements concerning Buyer's right to lease/rent said items and Seller makes no
36 representations or warranties concerning the transferability of said items or the assignment of any agreements relating
37 to the lease/rental of said items.

39 **PURCHASE PRICE AND TERMS:**

40 Total purchase price is _____ U.S. Dollars

41 (\$ _____) payable as follows:

42 \$ _____ earnest money to be applied at closing.

43 \$ _____ as additional cash payment, payable on or before closing.

44 \$ _____ .00 balance of the purchase price will be financed as follows:

45 Conventional

MBOH

Seller Financing

46 FHA

USDA-RD

Assumption of Existing Loans

47 VA

Other Institutional Financing

48 _____

Buyer's Initials

51 **CLOSING DATE:** The date of closing shall be (date) _____. The
52 parties may, by mutual agreement, close the transaction anticipated by this Agreement at any time prior to the date
53 specified. The Buyer and Seller will deposit with the closing agent all instruments and funds necessary to complete
54 the purchase in accordance with this Agreement.

56 **POSSESSION:** Seller shall deliver to Buyer possession of the property and allow occupancy:

57 when the closing agent is in receipt of all required, signed documents and all funds necessary for the purchase; OR

58 on the date of recording the deed or notice of purchaser's interest, OR

59 _____

60 Property shall be vacant unless otherwise agreed in writing. Seller shall provide keys and/or means to operate locks,
61 mailboxes, security systems, alarms, garage door opener(s), and Property Owner's Association facilities, if applicable.

63 **RECEIPT OF EARNEST MONEY:** Buyer agrees to provide Earnest Money in the amount of _____

64 _____ U.S. Dollars (\$ _____) as evidenced by Cash,

65 the receipt of which is acknowledged by the undersigned Broker/Salesperson; OR Check, the receipt of which is

66 acknowledged by the undersigned Broker/Salesperson; OR, _____

67 _____

68 If Buyer fails to pay the Earnest Money as set forth above, Buyer will be in default of this Agreement and Seller shall be
69 entitled to immediately terminate this Agreement and declare any Earnest Money already paid by Buyer to be forfeited.

71 All parties to this transaction agree, unless otherwise provided herein, that the earnest monies will be deposited

72 pursuant to Montana Law OR within (_____) business days of the date all parties have signed the Agreement or

73 _____

74 and such funds will be held in a trust account by _____.

75 Parties agree that interest accruing on earnest money, if any, while deposited shall be payable to: _____

76 _____

77 If interest is payable to the Broker it is agreed that sums so paid are consideration for services rendered.

78 _____

79 (Broker/Salesperson's Printed Name and Phone Number)

(Signature of Broker/Salesperson)

80 To be signed only if in actual receipt of Cash or Check.

82 The parties authorize the holder of the earnest money to forward to the closing agent, upon its request, all or any
83 portion of the earnest money required to complete the closing of the transaction.

85 **FINANCING CONDITIONS AND OBLIGATIONS:**

87 **BUYER'S REPRESENTATION OF FUNDS:** Buyer represents that they have sufficient funds for the down
88 payment and closing costs to close this sale in accordance with this Agreement and are not relying upon any
89 contingent source of such funds unless otherwise expressly set forth herein.

91 **LOAN APPLICATION:** If Buyer fails to make written application for financing and pay to the lender any
92 required fees, apply for assumption of an existing loan or contract, or initiate any action required for
93 completion of a contract for deed by 5:00 P.M. (Mountain Time) (date) _____

94 Buyer will be in breach of this Agreement and Seller can exercise Seller's remedies under this Agreement.

96 **V.A. BUYERS:** It is expressly agreed that, notwithstanding any other provisions of this contract, the Buyer
97 shall not incur any penalty by forfeiture of earnest money or otherwise be obligated to complete the purchase
98 of the Property if the contract purchase price or cost exceeds the reasonable value of the Property established
99 by the Veteran's Administration. The Buyer shall, however, have the privilege and option of proceeding with
100 the consummation of this Agreement without regard to the amount of the reasonable value established by
101 the Veteran's Administration.

102 **F.H.A. BUYERS:** In the event funds for the transaction anticipated by this Agreement are to be derived from
103 an F.H.A. insured loan, it is expressly agreed that, notwithstanding any other provisions of this Agreement,
104 the Buyer shall not be obligated to complete the purchase of the property described herein or to incur any
105 penalty by forfeiture of earnest money deposits or otherwise, unless the Buyer has received a written
106 statement issued by the Federal Housing Commissioner, Veteran's Administration, or a Direct Endorsement
107 lender setting forth the appraised value of the Property for mortgage insurance purposes of not less than the
108 amount set forth in the APPRAISAL PROVISION section, which amount is incorporated herein by reference.
109 The Buyer shall have the privilege and option of proceeding with the consummation of this Agreement without
110 regard to the amount of the appraised valuation made by the Federal Housing Commissioner. The appraised
111 valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban
112 Development (HUD) will insure. HUD does not warrant the value nor the condition of the Property. The Buyer
113 should satisfy himself/herself that the price and condition of the Property are acceptable.

115 **DETECTION DEVICES:** The Property is equipped with the following detection devices:

116 Smoke detector(s)

117 Carbon monoxide detector(s)

118 Other fire detection device(s): _____

119 _____

121 **PROPERTIES INSPECTIONS:** The Buyer is aware that any Brokerage Firm(s) and Salespersons involved in the
122 transaction anticipated by this Agreement have not conducted an expert inspection or analysis of the Property or its
123 condition and make no representations to the Buyer as to its condition, do not assure that the house and/or buildings
124 will be satisfactory to the Buyer in all respects, that all equipment will operate properly or that the Property and/or
125 improvements comply with current building and zoning codes and ARE NOT building inspectors, building contractors,
126 structural engineers, electricians, plumbers, sanitarians, septic or cesspool experts, well drillers or well experts, land
127 surveyors, civil engineers, flood plain or water drainage experts, roofing contractors or roofing experts, accountants,
128 attorneys, or title examiners, or experts in identifying hazardous waste and/or toxic materials.

130 **CONTINGENCIES:** The contingencies set forth in this Agreement or on attached addenda shall be deemed to have
131 been released, waived, or satisfied, and the Agreement shall continue to closing, unless, by 5:00 p.m. (Mountain
132 Time) on the date specified for each contingency, the party requesting that contingency has notified the other party or
133 the other party's Broker/Salesperson in writing that the contingency is not released, waived, or satisfied. If a party has
134 notified the other party on or before the release date that a contingency is not released, waived, or satisfied, this
135 Agreement is terminated, and the earnest money will be returned to the Buyer, unless the parties negotiate other
136 terms or provisions.

138 **INSPECTION CONTINGENCY:**

139 This Agreement is contingent upon Buyer's acceptance of the Property conditions identified through any
140 inspections or advice requested below. Buyer agrees to acquire, at Buyer's own expense, independent
141 inspections or advice from qualified inspectors or advisors of the Buyer's choice. Buyer agrees that any
142 investigations or inspections undertaken by Buyer or on his/her behalf shall not damage or destroy the
143 property, without the prior written consent of Seller. Further, Buyer agrees to return the property to its original
144 condition and to indemnify Seller from any damage or destruction to the property caused by the Buyer's
145 investigations or inspections, if Buyer does not purchase the property.

146 Home Inspection

147 Seller's Property Disclosure

148 Roof Inspection

149 Structural/Foundation Inspection

150 Electrical Inspection

151 Plumbing Inspection

152 Heating, ventilation, cooling system - Inspection

153 Wood Stove/Fireplace Inspection

154 Pest/Rodent Inspection

155 Well Inspection for condition of Well and Quantity of Water

156 Accounting Advice

157 Survey or Corner Pins located

158 Access to Property

159 Verification of # of code compliant bedrooms

Review and Approval of Protective Covenants

Easements

Flood Plain Determination

Water Sample Test

Septic or Cesspool Inspection

Mineral Rights Search

Radon

Asbestos

Wild Fire Risk

Legal Advice

Toxic Waste/Hazardous Material

Underground Storage Tanks

Sanitary Approval/Septic permit

Mold

273 **SPECIAL IMPROVEMENT DISTRICTS:** All Special Improvement Districts (including rural SIDs), including those
274 that have been noticed to Seller by City/County but not yet spread or currently assessed, will be:
275 paid off by Seller at closing;
276 assumed by Buyer at closing; OR
277 _____
278 All perpetual SIDs shall be assumed by Buyer.

280 **ASSOCIATION SPECIAL ASSESSMENTS:** Any special or non-recurring assessments of any non-governmental
281 association, including those that have been approved but not yet billed or assessed, will be:
282 paid off by Seller at closing;
283 assumed by Buyer at closing; OR
284 _____

286 **PRORATION OF TAXES AND ASSESSMENTS:** Seller and Buyer agree to prorate taxes, Special Improvement
287 District assessments for the current tax year, as well as prepaid rents, water and sewer system charges, heating
288 fuel and tank rental, irrigation assessments, Homeowner's Association dues and/or common maintenance fees,
289 as of the date of closing unless otherwise agreed as set forth in the additional provisions.

291 **CONDITION OF PROPERTY:** Seller agrees that the Property shall be in the same condition, normal wear and
292 tear excepted, from the date of the execution of this Agreement up to the time Buyer takes possession of the
293 Property. Seller agrees to leave the Property in broom clean or better condition and allow Buyer a walk-through
294 inspection of said Property prior to closing to insure that all appurtenances and appliances included in the sale
295 remain on the Property.

296
297 **NOXIOUS WEEDS DISCLOSURE:** Buyers of property in the State of Montana should be aware that some
298 properties contain noxious weeds. The laws of the State of Montana require owners of property within this state to
299 control, and to the extent possible, eradicate noxious weeds. For information concerning noxious weeds and your
300 obligations as an owner of property, contact either your local County extension agent or Weed Control Board.
301

302 **MEGAN'S LAW DISCLOSURE:** Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana Code
303 Annotated, certain individuals are required to register their address with the local law enforcement agencies
304 as part of Montana's Sexual and Violent Offender Registration Act. In some communities, law enforcement
305 offices will make the information concerning registered offenders available to the public. If you desire further
306 information please contact the local County Sheriff's office, the Montana Department of Justice, in Helena,
307 Montana, and/or the probation officers assigned to the area.

309 **RADON DISCLOSURE STATEMENT:** The following disclosure is given pursuant to the Montana Radon Control
310 Act, Montana Code Annotated Section 75-3-606. RADON GAS: RADON IS A NATURALLY OCCURRING
311 RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES,
312 MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON
313 THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA. ADDITIONAL
314 INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY OR
315 STATE PUBLIC HEALTH UNIT. If the Property has been tested for radon, the Seller will provide a copy of the test
316 results concurrent with an executed copy of this Agreement. If the property has received radon mitigation treatment, the
317 Seller will provide the evidence of the mitigation treatment concurrent with an executed copy of this Agreement.

319 **NEWLY CONSTRUCTED RESIDENCE:** If this Agreement is for the sale of a newly constructed residence that has not
320 been previously occupied and the Seller is the builder or a developer who built or had the residence built for the
321 purpose of resale, the Seller shall provide the following to the Buyer prior to closing:

323 (1) A statement of all inspections and tests that were performed prior to, during, or upon completion of
324 construction of the residence; and

325 (2) An express warranty that is valid for a period of at least 1 year from the date of the sale of the
326 residence that will provide detailed descriptions of those components that are included or excluded from the
327 warranty, the length of the warranty, and any specialty warranty provisions or time periods relating to certain
328 components. The warranty provisions must also clearly set forth the requirements that must be adhered to by the
329 Buyer, including the time and method for reporting warranty claims, in order for the warranty provision to become
330 applicable.

331 **BUYER'S REMEDIES:**

332 (A) If the Seller fails to accept the offer contained in this Agreement within the time period provided in the
333 BUYER'S COMMITMENT section, all earnest monies shall be returned to the Buyer.

334 (B) If the Seller accepts the offer contained in this Agreement, but refuses or neglects to consummate the
335 transaction anticipated by this Agreement within the time period provided in this Agreement, the Buyer may:

336 (1) Demand immediate repayment of all monies that Buyer has paid as earnest money, and upon the
337 return of such money, the rights and duties of Buyer and Seller under this Agreement shall be terminated;

338 **OR** (2) Demand that Seller specifically perform Seller's obligation under this Agreement;

339 **OR** (3) Demand monetary damages from Seller for Seller's failure to perform the terms of this Agreement.

341 **SELLER'S REMEDIES:**

342 If the Seller accepts the offer contained in this Agreement and Buyer refuses or neglects to consummate the
343 transaction anticipated by this Agreement within the time period provided in this Agreement, the Seller may:

344 (1) Declare the earnest money paid by Buyer be forfeited;

345 **OR** (2) Demand that Buyer specifically perform Buyer's duties and obligations under this Agreement;

346 **OR** (3) Demand that Buyer pay monetary damages for Buyer's failure to perform the terms of this Agreement.

348 **BUYER'S AND SELLER'S CERTIFICATION:** By entering into this Agreement, each person or persons executing
349 this Agreement, as Buyer or Seller, represents that he/she is eighteen (18) years of age or older, of sound mind,
350 and legally competent to own or transfer real property in the State of Montana; and, if acting on behalf of a
351 corporation, partnership, or other non-human entity, that he/she is duly authorized to enter into this Agreement on
352 behalf of such entity.

354 **FOREIGN PERSON OR ENTITY:** Section 1445 of the Internal Revenue Code provides that a Buyer of a U.S. real
355 property interest may be required to withhold tax if the Seller is a foreign person. Sellers acknowledge and agree that
356 unless the purchase price of the Property does not exceed \$300,000 and Buyer is purchasing the Property for use by
357 Buyer as a personal residence, Sellers shall deliver to Buyer a certificate of non-foreign status and any other
358 certificate, affidavit, or statement as may be necessary to meet the requirements of Section 1445 of the Internal
359 Revenue Code, in a form reasonably acceptable to Buyer and/or Buyer's attorney. In the event Sellers do not deliver
360 said documents to Buyer at or before closing, Sellers acknowledge and agree that Buyer or the closing agent may
361 withhold ten percent (10%) of the Purchase Price and submit this amount to the Internal Revenue Service, pursuant to
362 Section 1445 of the Internal Revenue Code.

364 **CONSENT TO DISCLOSE INFORMATION:** Buyer and Seller hereby consent to the procurement and disclosure
365 by Buyer, Seller, and Salespersons and their attorneys, agent, and other parties having interests essential to this
366 Agreement, of any and all information reasonably necessary to consummate the transaction anticipated by this
367 Agreement, specifically including access to escrows for review of contracts, deeds, trust indentures, or similar
368 documents concerning this property or underlying obligations pertaining thereto.

370 **RISK OF LOSS:** All loss or damage to any of the above-described Property or personal property to any cause is
371 assumed by Seller through the time of closing unless otherwise specified.

373 **TIME IS OF THE ESSENCE:** Time is of the essence as to the terms and provisions of this Agreement.

375 **BINDING EFFECT AND NON-ASSIGNABILITY:** The Agreement is binding upon the heirs, successors and
376 assigns of each of the parties hereto; however, Buyer's rights under this Agreement are not assignable without the
377 Seller's express written consent.

379 **ATTORNEY FEE:** In any action brought by the Buyer or the Seller to enforce any of the terms of this Agreement,
380 the prevailing party in such action shall be entitled to such reasonable attorney fees as the court or arbitrator shall
381 determine just.

383 **COMMISSION:** The Seller's and/or Buyer's commitment to pay a commission in connection with the transaction
384 anticipated by this Agreement is an integral part of this Agreement.

386 **FACSIMILE:** The parties agree that a facsimile copy of this Agreement to Sell and Purchase which contains the
387 parties' signatures may be used as the original.

388 **ENTIRE AGREEMENT:** This Agreement, together with any attached exhibits and any addenda or amendments
389 signed by the parties, shall constitute the entire agreement between Seller and Buyer, and supersedes any other
390 written or oral agreements between Seller and Buyer. This Agreement can be modified only in writing, signed by
391 the Seller and Buyer.

393 **COUNTERPARTS:** A copy of this Agreement may be executed by each individual/entity separately, and when
394 each has executed a copy thereof, such copies, taken together, shall be deemed to be a full and complete
395 Agreement between the parties.

397 **EARNEST MONEY DISPUTES:** Buyer and Seller agree that, in the event of any controversy regarding the
398 earnest money and things of value held by the Broker, closing agent, or any person or entity holding such money or
399 property, unless mutual written instructions are received by the holder of the earnest money and things of value,
400 Broker or closing agent shall not be required to take any action, but may await any proceedings, or, at Broker's or
401 closing agent's option and sole discretion, may interplead all parties and deposit any monies or things of value in a
402 Court of competent jurisdiction and may utilize as much of the earnest money deposit as may be necessary to
403 advance the cost and fees required for filing such action.

405 **ADDENDA AND/OR DISCLOSURES ATTACHED:** (check all that apply):

- | | | |
|-----|---|--|
| 406 | <input type="checkbox"/> Lead Based Paint Disclosure | <input type="checkbox"/> Sale of Buyer's Property |
| 407 | <input type="checkbox"/> Addendum for Additional Provisions | <input type="checkbox"/> 1031 Tax Deferred Exchange |
| 408 | <input type="checkbox"/> Back-up Offer | <input type="checkbox"/> Multi-Family Disclosure |
| 409 | <input type="checkbox"/> Mold Disclosure | <input type="checkbox"/> Water Rights Acknowledgement |
| 410 | <input type="checkbox"/> _____ | <input type="checkbox"/> Condominium Disclosure/Addendum |

412 **RELATIONSHIP CONFIRMATION:** The parties to this Agreement confirm that the real estate licensees' identified
413 hereafter have been involved in the capacities indicated below and the parties have previously received the
414 required statutory disclosures setting forth the licensees duties and the limits of their obligations to each party:

415 _____ of _____
416 (name of licensee) (name of Brokerage company)
417 is acting as Seller's Agent/Salesperson Dual Agent/Salesperson Statutory Broker.

419 _____ of _____
420 (name of licensee) (name of Brokerage company)
421 is acting as Buyer's Agent/Salesperson Dual Agent/Salesperson Statutory Broker;
422 Seller's Agent/Salesperson (includes Seller's Sub-Agent or Salesperson).

424 **BUYER'S ACKNOWLEDGMENT:** Buyer acknowledges that prior verbal representations by the Seller or Seller's
425 representatives do not modify or affect this Agreement. Buyer acknowledges that by signing this Agreement
426 he/she has examined the subject real and personal Property; has entered into this Agreement in full reliance upon
427 his/her independent investigation and judgments; and has read and understood this entire Agreement.

429 **BUYER'S COMMITMENT:** I/We agree to purchase the above-described Property on the terms and conditions set
430 forth in the above offer and grant to said Salesperson until (date) _____, at _____ am am pm
431 (Mountain Time) to secure Seller's written acceptance, whether or not that deadline falls on a Saturday, Sunday or
432 holiday. Buyer may withdraw this offer at any time prior to Buyer being notified of Seller's written acceptance. If Seller
433 has not accepted by the time specified, this offer is automatically withdrawn.

435 The parties hereto, all agree that the transaction contemplated by this document may be conducted by electronic
436 means in accordance with the Montana Uniform Electronic Transaction Act.

437 **I/WE HEREBY ACKNOWLEDGE** receipt of a copy of this Agreement bearing my/our signature(s).

439 Buyer's Address: _____ City _____,

441 State _____, Zip Code _____ Phone Number _____

443 Buyer's Name Printed: _____

445 Dated this _____, at _____ am pm (Mountain Time).

448 _____
449 (Buyer's Signature) (Buyer's Signature)

452 **OFFER PRESENTATION:** This offer was presented to the Seller(s) on

454 Date: _____ Time _____ am pm By: _____
455 (Signature of person presenting the offer)

457 **SELLER'S COMMITMENT:** I/We agree to sell and convey to Buyer the above-described Property on the terms
458 and conditions herein above stated. I/We acknowledge receipt of a copy of this Agreement bearing my/our
459 signature(s) and that of the Buyer(s) named above.

461 Seller's Address: _____ City _____,

463 State _____, Zip Code _____ Phone Number _____

465 Seller's Name Printed: _____

467 Dated this _____, at _____ am pm (Mountain Time).

470 _____
471 (Seller's Signature) (Seller's Signature)

473 **ACTION TAKEN, IF OTHER THAN ACCEPTANCE:**

475 Rejected by Seller _____/_____/_____ Modified per Attached Counter _____/_____/_____
476 Seller's Initials Date Seller's Initials Date

NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.