

**RESIDENTIAL REAL ESTATE PURCHASE & SALE AGREEMENT****GENERAL COMMENTS:**

- A. **Use.** Do not use this form for sale of anything other than a house. Use other NWMLS forms for a condominium (No. 28), vacant lot or land (No. 25), multi-family properties (No. 20) or a manufactured home (No. 23).
- B. **Fill in Completely.** Be sure it is completely filled in. The only blanks that are not required to be filled are the MLS number and the tax parcel number. It may be legally unenforceable if anything other than these blanks are not filled in. If unenforceable, you could be liable for malpractice to Buyer or Seller. If a blank is not applicable to this sale, mark it "N/A," or line out the sentence or clause.
- C. **Common Mistakes.** The most frequent causes for this Agreement being legally unenforceable are: failure to check a box; lack of, or an incomplete legal description; lack of all signatures; incomplete payment terms; and failure to attach a note and deed of trust (or real estate contract) if there is Seller financing.
- D. **Potential Malpractice Liability.** Under the "Heritage House" and other cases, the courts will hold you to the malpractice standards of an attorney in filling in this form. If an attorney would have done it differently, you could be liable for malpractice. Also, you can only fill in blanks of attorney written forms (such as this one) or insert attorney drafted or approved special clauses. Some attorney prepared special clauses appear at the front of this Manual.
- E. **Property Information Verification Period.** The purchase and sale agreement includes a provision that allows Buyer ten (10) days to verify that the information provided by Seller and the listing firm about the Property is accurate. During this period, Buyer should verify the accuracy of the information contained in the listing, flyers, advertising, other marketing, and the Seller Disclosure Statement (Form 17). If Buyer discovers a material inaccuracy in the information provided by Seller or the listing firm, Buyer may elect to terminate the Agreement within the ten-day period. If Buyer does not terminate, then Buyer will waive the right to terminate and the transaction will move forward.

**ASSISTANCE FILLING IN THE BLANKS:** The following numbers refer to the numbers on the sample form shown in this Manual:

1. **Date.** The date the Agreement is prepared. The exact date is not too important because the actual date Buyer and Seller sign the Agreement is inserted by their signatures below. This is just a reference date to be used when referring to the Agreement. This is not the date of mutual acceptance (unless mutual acceptance happens to occur on this date).

**NOTE:** The date of mutual acceptance is important because it triggers many of the time lines in the Purchase and Sale Agreement. There is no blank to insert the date of mutual acceptance of the Agreement. Mutual acceptance occurs when a party accepts an offer by signing it without making any changes and delivering the signed Agreement to the other party. If the parties agree upon and attach a legal description after the delivery of the signed Agreement, then, for the purposes of computing time, mutual acceptance is the date of the delivery of the signed Agreement, rather than the date the legal description is attached.

You can confirm the date of mutual acceptance with a facsimile confirmation sheet if the acceptance was faxed to the other party. A "received" stamp will also confirm the day that

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the acceptance was delivered. Alternatively, you may make a note of the day on which you received or delivered the final acceptance.

2. **MLS Number.** Insert the NWMLS listing number for the Property. This is for reference only and is not a material term of the Agreement.
3. **Names of Buyer and Seller.** Insert the names of all Buyers and Sellers and describe their status. For instance, if Buyer or Seller consists of a husband and wife, insert both their names and explain their status as husband and wife. For example:

Mary A. and John D. Smith, husband and wife.

If there is only one individual signing, explain the status in which they are purchasing or selling the Property. For example:

Mary A. Smith, a married person dealing with her sole and separate property

or

Mary A. Smith, a single person

If it is a corporation or other entity, describe the type of entity. For example:

ABC LLC, a Washington limited liability company

**NOTE: Be careful about using “and/or assigns.”** It is common for Buyer to be identified as, for example, “John Q. Smith and/or assigns.” From a Buyer’s perspective, that language generally allows Buyer to assign the right to purchase the Property to someone else. However, from a Seller’s perspective, it could be trouble for Seller if Buyer assigns to another Buyer who is a poor credit risk or is a shell corporation. If you represent Seller, you could be liable to Seller in such cases. To provide protection to Seller, you can add language stating “and/or assigns approved by Seller.” However, if Seller signs an agreement that identifies Buyer “and/or assigns,” Seller will be deemed to have consented, in writing, to an assignment, as set forth in the Assignment paragraph of the Agreement.

4. **Tax Parcel Numbers.** Insert the tax parcel number or numbers. This is for reference only and is not a material term of the Agreement.

**NOTE: Do not rely on the tax parcel number as a replacement for the legal description.** The description of the Property in the tax records is often not a complete legal description.

5. **County.** Insert the county in which the Property is located.
6. **Street Address.** Insert the street address of the Property.
7. **Zip Code.** Insert the zip code for the Property.
8. **Legal Description.** Attach the legal description as Exhibit A. Be sure the legal description is correct and complete. A street address is not sufficient. Do not use an abbreviated description because it does not contain the entire legal description. A complete legal description may be obtained from Seller’s deed or the deed of trust on the Property. The best place to get a legal description is from a title insurance company. You can photocopy the legal description from the Preliminary Title Commitment or Seller’s deed and attach it as an exhibit to the Purchase and Sale Agreement. This reduces the risk of transcription errors.

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**DO NOT USE PARCEL NUMBERS OR TAX STATEMENTS FOR LEGAL DESCRIPTIONS.** Tax statements contain abbreviated and often times incomplete descriptions of the property.

**NOTE:** If the legal description is not attached or correct at the time of mutual acceptance, it should be attached or corrected immediately after. If the legal description has not been attached or corrected before Buyer or Seller wants out of the deal, the Agreement could be unenforceable. If you are attaching or correcting the legal description after mutual acceptance, always have both Buyer and Seller initial the legal description in order to establish that they participated in the process.

Again, without an accurate and complete legal description, the purchase and sale agreement may be unenforceable and either party may take advantage of the lack of correct legal description by refusing to proceed any further. Both Listing Broker and Selling Broker have a duty to make sure the legal description is accurate, complete, and attached at the time of mutual acceptance. In order to encourage Seller and Listing Broker to obtain a legal description as soon as possible, the purchase and sale agreement allows Seller to order the preliminary commitment and requires Buyer to pay any cancellation fee if Buyer decides to use a different title insurance company at the time of mutual acceptance.

9. **Included Items.** Check the items that will be included as part of the sale. Write in any items that are not otherwise identified as a Specific Term or in General Term c, "Included Items," but which will be included in the sale.

**NOTE:** General Term "c" provides a list of items that are included in every sale. The list includes things like wall-to-wall carpeting, window and door screens, window treatments, water heaters, garage door openers, and plants and trees planted in the ground. There is also a "catch-all" provision to include any item that is a "fixture." A fixture is any personal property that is attached to the land or building and that is regarded as an irremovable part of the real property. If there is a fixture on the Property that Seller wants to exclude from the sale, that item should be listed in the excluded item provision in Form 22D. If there is an item that Buyer wants to include in the purchase, that item should be identified in Specific Term 5. If there is any potential uncertainty about a specific item, the parties should specifically address whether that item is included or not.

**NOTE:** If any of the Included Items are leased or encumbered, General Term c requires that Seller acquire and clear title to such items at or before Closing.

10. **Purchase Price.** Insert the Purchase Price. It is advisable to both spell out and insert the numbers, e.g. "One Hundred Thousand Dollars (\$100,000.00)."
11. **Earnest Money.** Check the appropriate box to indicate whether the Earnest Money will be held by the Selling Firm or Closing Agent. Note that if the parties elect to have the Earnest Money held by Selling Firm, General Term b, "Earnest Money," permits the Selling Firm to transfer the Earnest Money to the Closing Agent at Closing.

General Term b states that Buyer must deliver the Earnest Money within two days after mutual acceptance of the Agreement. Note that Buyer must deliver the Earnest Money to the Selling Broker, even if the Earnest Money is to be held by the Closing Agent. If the Earnest Money is to be held by the Closing Agent, the Selling Broker must deliver it to the Closing

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Agent. However, it is common for Selling Firms and Brokers to require that the Earnest Money be delivered to Selling Broker upon the initial presentation of the offer to Seller. In fact, it may be in Buyer's interest to have paid their Earnest Money upon the presentation of Buyer's offer because this will make Buyer look like a serious purchaser.

Selling Broker must then deposit any check to be held by Selling Firm or deliver a check to be held by Closing Agent within three days of receipt or mutual acceptance, whichever occurs later. If, for instance, Buyer delivers a check to Selling Broker upon presentation of the offer but the Agreement is not accepted by Seller for another week, Selling Broker is not obligated to deposit the check until three days after mutual acceptance by Seller. You should review your firm's internal policies and the relevant provisions of the Washington Administrative Code to make sure that you comply with those requirements regarding the handling of earnest money.

If the parties have directed Selling Broker to deliver the check to the Closing Agent, the Agreement instructs the Closing Agent to give a receipt for the Earnest Money and to provide notice if the check is dishonored to the parties and the brokers.

General Term b provides for a process for the disbursement of Earnest Money upon termination of the Agreement. Although NWMLS forms provide that, under certain circumstances, the Earnest Money should be disbursed to either Buyer or Seller, many Closing Agents will not disburse the Earnest Money without both parties written consent. General Term b requires that upon termination, the parties shall execute a release form authorizing the release of Earnest Money. If either party fails to execute the release form, the other party may make a written demand to Closing Agent for the Earnest Money. Closing Agent is instructed to deliver notice of the demand to the other party. If the other party does not object to the demand within 10 days, Closing Agent is instructed to disburse the Earnest Money to the party making the demand. The Agreement provides that if Closing Agent complies with the above process, the parties release Closing Agent from any and all claims or liability related to the disbursal of the Earnest Money.

In some cases, Closing Agent may choose not to follow this process. Accordingly, the Agreement advises the parties that Closing Agent may require the parties to execute a separate agreement before disbursing the Earnest Money. In addition, upon the request of either party, the Agreement instructs Closing Agent to commence an interpleader action. Closing Agent may deduct up to \$500.00 of the costs of the interpleader action from the Earnest Money. Under General Term b, the term Closing Agent includes a Selling Firm holding the Earnest Money. Brokers are advised to remind Closing Agent of these instructions until the escrow industry becomes familiar with the process.

12. **Form and Amount of Earnest Money.** Insert the amount of the Earnest Money next to the line indicating the method of payment. For instance, if the Earnest Money is \$10,000 paid by check, insert "\$10,000.00" on the line following personal check.

If the Earnest Money is to be paid by a note, you may wish to use NWMLS Form 31, the Earnest Money Promissory Note. If Seller accepts Earnest Money in the form of a promissory note, consider making it payable "on acceptance by Seller," or "on Buyer's waiver or satisfaction of the inspection contingency." In any event, do not insert the words "payable on closing." If the sale never closes, the note may never be payable. Instead if the

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parties wish the Earnest Money note to be payable on the Closing Date, insert the calendar date on which closing is to occur, e.g., "December 15, 1998." If the Closing Date is later extended you should amend the promissory note and indicate an extension of the note due date accordingly.

13. **Default.** Check the appropriate box to indicate what remedy Seller will have upon Buyer's breach of the Agreement. Check "Forfeiture of Earnest Money" if the parties agree that Seller's sole remedy in the case of Buyer's breach is to retain that portion of the Earnest Money which does not exceed five percent of the Purchase Price. Check the "Seller's Election of Remedies" box if the parties agree that Seller will have the full range of remedies available at law (e.g., Seller may keep the Earnest Money as liquidated damages, sue for actual damages or seek specific performance of the Agreement).

Due to changes in the law in 2005, the parties no longer need to separately initial the Forfeiture of Earnest Money provision of the purchase and sale agreement. Therefore, all you need to do is check the box for the provision to apply.

14. **Title Insurance Company.** Insert the name of the title insurance company. A Seller who has already ordered a preliminary title commitment may wish to use the same title company to issue the policy.

Please read the Title Insurance provision of the purchase and sale agreement in the General Terms. By default, the parties agree that Seller will pay the premium for the then-current ALTA form of Homeowner's Policy of Title Insurance for One-to-Four Family Residence. If the Homeowner's Policy is not available for the Property, the then-current ALTA standard form Owner's Policy will issue instead. If Seller orders a preliminary title commitment that Buyer declines to use, then Buyer agrees to pay any cancellation fee owing to the original title insurance company.

If the parties would like a different policy of title insurance, you will need to include Form 22D, Optional Clauses Addendum. Form 22D provides two additional policies of title insurance to choose from: 1) the standard form Owner's Policy (which provides less coverage than the Homeowner's Policy) or 2) an extended coverage policy of title insurance (which provides more coverage but at significant expense to Buyer). Please see the manual instructions for Form 22D for additional information.

15. **Closing Agent.** Check the appropriate box to indicate whether the Closing Agent will be (1) a qualified Closing Agent of Buyer's choice or (2) a named Closing Agent. When filling in a specific name for the Closing Agent use the company name, not the individual escrow officer's name. Never insert words like "as agreed to" or "to be agreed to later." If the agreement is contingent on financing, a Buyer may wish to choose "a qualified Closing Agent of Buyer's choice" so that it can use an agent designated by Buyer's lender as the Closing Agent.
16. **Closing Date.** Insert the date on which the sale must be closed. Putting a specific day or time period provides certainty to both Buyer and Seller, especially because one of them may be without a place to live for some period. If the parties wish to have a period of time in which closing will occur, be specific about the time period in which Closing can occur. For instance you can insert "after December 5, 1998, but no later than December 10, 1998, at the option of Buyer." You should identify whether it is Buyer or Seller who chooses the specific

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day on which the Closing will occur within that time frame. If the Closing Date is inadvertently scheduled on a Saturday, Sunday, or legal holiday, General Term f provides that closing shall occur on the next day that is not a Saturday, Sunday, or legal holiday.

**NOTE:** If the parties later wish to change the Closing Date, this modification of the Agreement must be made in writing.

17. **Possession Date.** Check the appropriate box to indicate when Buyer will be entitled to possession: (1) “on Closing;” (2) “Other,” followed by a blank line. If you select the box for “Other,” make sure you clarify what the parties intend by writing the day on which possession will occur on the blank line that follows. You may include a date certain, or you may refer to a period of time after closing (e.g., “3 calendar days after closing”). If you refer to a period of time measured in days after closing, make sure you are very clear about whether the days are counted as calendar days or not. If you fail to include the word “calendar,” the days will be counted as set forth in the Computation of Time provisions of the Agreement. If the Property is subject to an existing lease, check the second box and write in, for example, “on Closing subject to an existing lease expiring June 30, 1999. Buyer is entitled to the rent following Closing.”

If the parties agree to possession before or after Closing, be sure that the parties contact their respective insurance companies to assure appropriate hazard and liability insurance policies are in place. Also, if possession transfers at a time other than Closing, be sure to have the parties execute either NWMLS Form 65A (early possession) or NWMLS Form 65B (delayed possession) (or alternative rental agreements). General Term f requires Seller to deliver keys to the Property on the earlier of the Closing Date or Possession Date.

18. **Offer Expiration Date.** Insert the date by which Buyer’s initial offer must be accepted. Note that an acceptance is not legally effective until it is delivered to Buyer, Selling Broker, or at the licensed office of the Selling Broker. Acceptance must be delivered by 9:00 p.m. of the specified date or the offer expires. Acceptance shall not be effective until a signed copy is actually received by Seller, by Listing Broker or at the licensed office of Listing Broker.

If no expiration date is specified for a offer/counteroffer, the offer/counteroffer shall expire 2 days after the offer/counteroffer is delivered by the party making the offer/counteroffer, unless sooner withdrawn.

**NOTE:** Once an offer or counteroffer is made, deliver it to the other party as soon as possible. Delay could result in the other party claiming that it is your fault that he or she did not have time to consider or sign the offer before it was withdrawn or expired.

**WITHDRAWALS OF OFFERS OR COUNTEROFFERS.** General Term s, “Counteroffer,” states that Buyer has until 9:00 p.m. of the Counteroffer Expiration Date to accept the counteroffer, “unless withdrawn.” An offer or counteroffer can be withdrawn before acceptance is delivered to the other party. Withdrawal of a counteroffer or offer must be communicated in writing. General Term k, “Notices,” specifically states “Any notice required or permitted in, or related to, this Agreement (including revocations of offers or counteroffers) must be in writing.” In fact, use of NWMLS’s copyright forms is specifically conditioned on the parties’ agreement to provide notices, including revocations (or withdrawals) of offers and counteroffers, in writing. If a party decides to withdraw an offer or counteroffer, use NWMLS Counteroffer Withdrawal Form No. 36A.

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**NOTICES.** There are too many varieties of Notices to print in hard copy and stock a full selection. However, a variety of typical Notice forms are available on Xpress Forms only (Forms series 90). In addition, if you need to provide a notice that is not already provided by NWMLS, you may draft it on Form 90, Blank Notice.

**HANDLING OFFERS AND COUNTEROFFERS.** Always try to use the separate NWMLS Counteroffer Addendum Form No. 36 and be sure it is dated and signed. It is common to make changes right on the Purchase and Sale Agreement and have all the parties initial and date in the margin. This is all right when both parties are in complete agreement and are sitting in front of you. However, this rarely happens and, therefore, each change made by a party is a “counteroffer.” Since Buyer and Seller will be signing separately, use a separate counteroffer addendum even on something as simple as a price change. This also makes the Purchase and Sale Agreement easier to read, especially after faxing or copying. If you do make changes to the Purchase and Sale Agreement form, have the parties initial next to each change and be sure they put a date beside each initial. If you use Form 36, you also avoid any ambiguity in the expiration of the counteroffer because every Form 36 includes a provision that tells the parties when the counteroffer expires.

19. **Services of Closing Agent for Payment of Utilities.** Check the box to indicate whether the parties request the services of the Closing Agent in paying off unpaid utility charges or whether they waive these services. RCW 60.80 provides that unless Buyer and Seller waive in writing the services of a Closing Agent in paying off unpaid utility charges, then Seller must include in the Purchase and Sale Agreement a request to the Closing Agent to disburse settlement funds necessary to satisfy unpaid utility charges affecting the Property. The request to the Closing Agent must include the names and addresses of all utilities having lien rights. Closing Agents may charge a fee for these services. If the services are not waived, attach NWMLS Form 22K Identification of Utilities Addendum. This form requires Seller to list the names and addresses of the utility providers.

We specifically use the word “waive” to make it easier for brokers to explain to Buyers and Sellers that Seller is required to include a request to the Closing Agent in the Agreement unless both parties waive those services in writing. Note that General Term h, “Closing Costs and Prorations,” provides that the parties request the services of Closing Agent unless they check the “waived” box in Specific Term No. 14.

20. **Charges and Assessments Due After Closing.** Check the box to indicate whether Buyer or Seller will pay for charges and assessments due after closing. This provision applies to any local improvement district, capacity or impact charges or other assessments that are levied before Closing, but become due after Closing. Seller is responsible to pay such charges that are due before Closing. In addition, if the charge or assessment was recorded on title as an encumbrance, Seller also must pay the charge or assessment as the time of closing.

If the charge or assessment is levied prior to Closing but does not become due until after Closing, the parties must agree who will pay it. For example, an irrigation district imposes an assessment on the Property before Closing for improvements to the local irrigation system. The assessed amount is due six months after Closing. The parties must agree, in Specific Term No. 15, who will pay that assessment and any similar charges against the Property.

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21. **Selling Broker Disclosure.** Check the appropriate box to indicate which party the Selling Broker represented.

**NOTE:** The disclosure for the Selling Firm is made in General Term u, “Agency Disclosure,” which states that the “Selling Firm, Selling Firm’s Designated Broker, Selling Broker’s Branch Manager (if any) and Selling Broker’s Managing Broker (if any) represent the same party that Selling Broker represents.” This paragraph goes on to disclose that the Designated Broker, Branch Manager (if any), and the Managing Broker (if any and if applicable) are acting as a dual agents if the Selling Firm represents both Buyer and Seller.

**COMMISSION.** RCW 18.85.361(10) states that a licensee may not charge or accept compensation from more than one party in a transaction “without first making full disclosure in writing of all the facts to all the parties interested in the transaction.” Also, the Agency Reform Act requires that all parties must consent to a broker’s receiving compensation from more than one party. In situations where the Selling Firm or the Listing Firm is entitled to receive compensation from more than one party, full disclosure must be made to all parties in writing even though General Term u contains the consent of both Seller and Buyer.

22. **Listing Broker Disclosure.** Check the box to indicate whether the Listing Broker represented Seller or both parties.

**NOTE:** The disclosure for the Listing Firm is made in General Term u, “Agency Disclosure,” which states, “Listing Firm, Listing Firm’s Designated Broker, Listing Broker’s Branch Manager (if any), and Listing Broker’s Managing Broker (if any) represent the same party that the Listing Broker represents.” This paragraph goes on to disclose that the Designated Broker, Branch Manager (if any), and the Managing Broker (if any and if applicable) are acting as a dual agents if the Listing Firm represents both Buyer and Seller.

23. **Addenda.** Insert each addendum and attachment in this space. You should identify the form number and the title, *e.g.*, “22A Financing Addendum, 22B Contingency Addendum, and 22D Optional Clauses Addendum.”

**NOTE:** It is important to identify all addenda to ensure they will be incorporated by reference as part of the Agreement. This is the only place that identifies that there are contingencies such as financing or inspection.

If you represent Seller, do not reference Form 17 or Form 17C, Seller Disclosures Form, because by referencing them, they may become part of the contract. Making Form 17 part of the contract has several unintended consequences, including making the attorneys’ fees provision apply. In addition, Form 17 specifically says it is not a part of the contract. Referencing the form in the contract only confuses the issue.

24. **Signatures and Dates.** Buyer and Seller should sign and date the Agreement. If husband and wife, both must sign.

If Buyer or Seller is a corporation, partnership, limited liability company, estate or trust, put (1) the entity name (2) the word “By” to indicate the person is signing as a representative of the entity (3) the signature of the officer, trustee, personal representative or partner and (4) the individual’s title. For example:

ABC Corp., By: \_\_\_\_\_, Its President



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or

Smith Family Trust dated December 10, 1998, By: \_\_\_\_\_, Trustee

If it is being signed by a Power of Attorney, the person signing should indicate they are acting as the attorney-in-fact. For example:

John Q. and Mary Smith, By: \_\_\_\_\_, their Attorney-in fact.

If the Agreement is signed by someone with a Power of Attorney, ask to see a copy of the Power of Attorney. If the Power of Attorney has not been recorded, the Closing Agent will need the original to record at Closing. Corporations, limited liability companies, trusts and guardians cannot sign by a Power of Attorney.

25. **Addresses.** Insert the street and apartment or unit, if appropriate.
26. **City, State and Zip.** Insert the city, state and zip code to complete the address.
27. **Phone and Fax Numbers.** Insert Buyer's and Seller's phone number and facsimile numbers, including area code.
28. **E-mail.** Insert Buyer's and Seller's e-mail addresses, if available. The parties may receive documents and other correspondence related to the purchase and sale by e-mail. However, e-mail transmissions are not effective to give Notice or to communicate an offer or acceptance, even with electronic signatures unless the parties otherwise agree in writing (e.g., in the Optional Clauses Addendum – Form 22D).
29. **Selling and Listing Firms.** Insert the name of the Firm as licensed. If the Firm is a company, insert the company name, *e.g.*, "ABC Realty, Inc." If the Firm is an unincorporated proprietorship, insert the owner/proprietor's name as shown on the license. In the past, there has been much confusion about this issue — the easiest solution is to look at the firm's real estate license and insert whatever it says. It is important that this information be filled in because it is a part of the Agency Disclosure. If it is an in-house transaction, insert the Firm's name in both the Selling Firm and Listing Firm spaces.
30. **MLS Office Number.** Insert the NWMLS number assigned to the office. A list of all offices and their office numbers can be found in the membership information function in the Matrix system.
31. **Assumed Names.** Insert the "assumed name" of the Listing Firm or Selling Firm, if applicable. Real estate firms may register "assumed names" with the Department of Licensing. If a firm registers an assumed name, the firm may conduct the firm's business using either the firm's name or the firm's assumed name. If a firm conducts the firm's business using an assumed name in a particular transaction, the purchase and sale agreement should reflect both the firm's name and the firm's assumed name. This will allow Buyer and Seller to identify if the Selling Broker and Listing Broker work for the same firm.
32. **Selling Broker and Listing Broker.** Insert the names of the Selling Broker and Listing Broker. If the same broker represented both parties, insert the broker's name in both the Selling Broker and Listing Broker spaces.
33. **Phone and Fax Numbers of Brokers.** Insert the phone and facsimile numbers of the licensed office of the Selling Broker and Listing Broker.

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34. **E-mail.** Insert Selling Brokers and Listing Broker's e-mail addresses. Please note that e-mail transmissions are not effective to give Notice or to communicate an offer or acceptance, even with electronic signatures, unless the parties otherwise agree in writing (e.g., in the Optional Clauses Addendum – Form 22D).
35. **Initials of Buyer and Seller.** You should have Buyer(s) and Seller(s) initial and date the second, third, fourth, and fifth pages of the Agreement.

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SPECIFIC TERMS**

1. **Date:**  **MLS No.:**
2. **Buyer:**
3. **Seller:**
4. **Property:** Tax Parcel No(s):  (  County)  
Street Address:  Washington   
**Legal Description:** Attached as Exhibit A.
5. **Included Items:** ☐ stove/range; ☐ refrigerator; ☐ washer; ☐ dryer; ☐ dishwasher; ☐ hot tub; ☐ fireplace insert;  
☐ wood stove; ☐ satellite dish and operating equipment; ☐ security system; ☐ attached television(s); ☐ attached  
speaker(s); ☐ other
6. **Purchase Price:** \$
7. **Earnest Money:** (To be held by ☐ Selling Firm; ☐ Closing Agent)   
☐ Personal Check: \$ ; Note: \$ ; Other (  ): \$
8. **Default:** (check only one) ☐ Forfeiture of Earnest Money; ☐ Seller's Election of Remedies ☐
9. **Title Insurance Company:**
10. **Closing Agent:** ☐ a qualified closing agent of Buyer's choice; ☐
11. **Closing Date:**
12. **Possession Date:** ☐ on Closing; ☐ Other
13. **Offer Expiration Date:**
14. **Services of Closing Agent for Payment of Utilities:** ☐ Requested (attach NWMLS Form 22K); ☐ Waived ☐
15. **Charges and Assessments Due After Closing:** ☐ assumed by Buyer; ☐ prepaid in full by Seller at Closing ☐
16. **Agency Disclosure:** Selling Broker represents: ☐ Buyer; ☐ Seller; ☐ both parties; ☐ neither party ☐  
Listing Broker represents: ☐ Seller; ☐ both parties ☐
17. **Addenda:**

Buyer's Signature	<input type="text"/>	Date	<input type="text"/>
Buyer's Signature	<input type="text"/>	Date	<input type="text"/>
Buyer's Address	<input type="text"/>		
City, State, Zip	<input type="text"/>		
Phone No.	<input type="text"/>	Fax No.	<input type="text"/>
Buyer's E-mail Address	<input type="text"/>		
Selling Firm	<input type="text"/>	MLS Office No.	<input type="text"/>
Selling Firm's Assumed Name (if applicable)	<input type="text"/>		
Selling Broker (Print)	<input type="text"/>	MLS LAG No.	<input type="text"/>
Phone No.	<input type="text"/>	Firm Fax No.	<input type="text"/>
Selling Broker's E-mail Address	<input type="text"/>		

Seller's Signature	<input type="text"/>	Date	<input type="text"/>
Seller's Signature	<input type="text"/>	Date	<input type="text"/>
Seller's Address	<input type="text"/>		
City, State, Zip	<input type="text"/>		
Phone No.	<input type="text"/>	Fax No.	<input type="text"/>
Seller's E-mail Address	<input type="text"/>		
Listing Firm	<input type="text"/>	MLS Office No.	<input type="text"/>
Listing Firm's Assumed Name (if applicable)	<input type="text"/>		
Listing Broker (Print)	<input type="text"/>	MLS LAG No.	<input type="text"/>
Phone No.	<input type="text"/>	Firm Fax No.	<input type="text"/>
Listing Broker's E-mail Address	<input type="text"/>		

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT**  
**GENERAL TERMS**

*Continued*

- a. Purchase Price.** Buyer shall pay to Seller the Purchase Price, including the Earnest Money, in cash at Closing, unless otherwise specified in this Agreement. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement and is not relying on any contingent source of funds, including funds from loans, the sale of other property, gifts, retirement, or future earnings, except to the extent otherwise specified in this Agreement.
- b. Earnest Money.** Buyer shall deliver the Earnest Money within 2 days after mutual acceptance of this Agreement to Selling Broker who will deposit any check to be held by Selling Firm, or deliver any Earnest Money to be held by Closing Agent, within 3 days of receipt or mutual acceptance, whichever occurs later. If the Earnest Money is held by Selling Firm and is over \$10,000.00 it shall be deposited into an interest bearing trust account in Selling Firm's name provided that Buyer completes an IRS Form W-9. Interest, if any, after deduction of bank charges and fees, will be paid to Buyer. Buyer shall reimburse Selling Firm for bank charges and fees in excess of the interest earned, if any. If the Earnest Money held by Selling Firm is over \$10,000.00 Buyer has the option to require Selling Firm to deposit the Earnest Money into the Housing Trust Fund Account, with the interest paid to the State Treasurer, if both Seller and Buyer so agree in writing. If the Buyer does not complete an IRS Form W-9 before Selling Firm must deposit the Earnest Money or the Earnest Money is \$10,000.00 or less, the Earnest Money shall be deposited into the Housing Trust Fund Account. Selling Firm may transfer the Earnest Money to Closing Agent at Closing. If all or part of the Earnest Money is to be refunded to Buyer and any such costs remain unpaid, the Selling Firm or Closing Agent may deduct and pay them therefrom. The parties instruct Closing Agent to provide written verification of receipt of the Earnest Money and notice of dishonor of any check to the parties and Brokers at the addresses and/or fax numbers provided herein.
- Upon termination of this Agreement, a party or the Closing Agent may deliver a form authorizing the release of Earnest Money to the other party or the parties. The party(s) shall execute such form and deliver the same to the Closing Agent. If either party fails to execute the release form, the other party may make a written demand to the Closing Agent for the Earnest Money. If only one party makes such a demand, Closing Agent shall promptly deliver notice of the demand to the other party. If the other party does not object to the demand within 10 days of Closing Agent's notice, Closing Agent shall disburse the Earnest Money to the party making the demand. If Closing Agent complies with the preceding process, each party shall be deemed to have released Closing Agent from any and all claims or liability related to the disbursement of the Earnest Money. The parties are advised that, notwithstanding the foregoing, Closing Agent may require the parties to execute a separate agreement before disbursing the Earnest Money. If either party fails to authorize the release of the Earnest Money to the other party when required to do so under this Agreement, that party shall be in breach of this Agreement. Upon either party's request, the party holding the Earnest Money shall commence an interpleader action in the county in which the Property is located. For the purposes of this section, the term Closing Agent includes a Selling Firm holding the Earnest Money. The parties authorize the party commencing an interpleader action to deduct up to \$500.00 for the costs thereof.
- c. Included Items.** Any of the following items, including items identified in Specific Term No. 5 if the corresponding box is checked, located in or on the Property are included in the sale: built-in appliances; wall-to-wall carpeting; curtains, drapes and all other window treatments; window and door screens; awnings; storm doors and windows; installed television antennas; ventilating, air conditioning and heating fixtures; trash compactor; fireplace doors, gas logs and gas log lighters; irrigation fixtures; electric garage door openers; water heaters; installed electrical fixtures; lighting fixtures; shrubs, plants and trees planted in the ground; and other fixtures; and all associated operating remote controls. If any of the above Included Items are leased or encumbered, Seller shall acquire and clear title at or before Closing.
- d. Condition of Title.** Unless otherwise specified in this Agreement, title to the Property shall be marketable at Closing. The following shall not cause the title to be unmarketable: rights, reservations, covenants, conditions and restrictions, presently of record and general to the area; easements and encroachments, not materially affecting the value of or unduly interfering with Buyer's reasonable use of the Property; and reserved oil and/or mining rights. Monetary encumbrances or liens not assumed by Buyer, shall be paid or discharged by Seller on or before Closing. Title shall be conveyed by a Statutory Warranty Deed. If this Agreement is for conveyance of a buyer's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a buyer's assignment of the contract sufficient to convey after acquired title.
- e. Title Insurance.** Seller authorizes Buyer's lender or Closing Agent, at Seller's expense, to apply for the then-current ALTA form of Homeowner's Policy of Title Insurance for One-to-Four Family Residence, from the Title Insurance Company. If Seller previously received a preliminary commitment from a Title Insurance Company that Buyer declines to use, Buyer shall pay any cancellation fees owing to the original Title Insurance Company. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. If the Title Insurance Company selected by the parties will not issue a Homeowner's Policy for the Property, the parties agree that the Title Insurance Company shall instead issue the then-current ALTA standard form Owner's Policy, together with homeowner's additional protection and inflation protection endorsements, if available. The Title Insurance Company shall send a copy of the preliminary commitment to Seller, Listing Broker, Buyer and Selling Broker. The preliminary commitment, and the title policy to be issued, shall contain no exceptions other than the General Exclusions and Exceptions in the Policy and Special Exceptions consistent with the Condition of Title herein provided. If title cannot be made so insurable prior to the Closing Date, then as Buyer's sole and exclusive remedy, the Earnest Money shall,

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**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT**  
**GENERAL TERMS**

*Continued*

unless Buyer elects to waive such defects or encumbrances, be refunded to the Buyer, less any unpaid costs described in this Agreement, and this Agreement shall thereupon be terminated. Buyer shall have no right to specific performance or damages as a consequence of Seller's inability to provide insurable title.

**f. Closing and Possession.** This sale shall be closed by the Closing Agent on the Closing Date. If the Closing Date falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, the Closing Agent shall close the transaction on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. "Closing" means the date on which all documents are recorded and the sale proceeds are available to Seller. Seller shall deliver keys and garage door remotes to Buyer on the Closing Date or on the Possession Date, whichever occurs first. Buyer shall be entitled to possession at 9:00 p.m. on the Possession Date. Seller shall maintain the Property in its present condition, normal wear and tear excepted, until the Buyer is entitled to possession. Seller shall not enter into or modify existing leases or rental agreements, service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld. If possession transfers at a time other than Closing, the parties agree to execute NWMLS Form 65A (Rental Agreement/Occupancy Prior to Closing) or NWMLS Form 65B (Rental Agreement/Seller Occupancy After Closing) (or alternative rental agreements) and are advised of the need to contact their respective insurance companies to assure appropriate hazard and liability insurance policies are in place, as applicable.

RCW 19.27.530 requires the seller of any owner-occupied single-family residence to equip the residence with a carbon monoxide alarm(s) in accordance with the state building code before a buyer or any other person may legally occupy the residence following the sale. The parties acknowledge that the Brokers are not responsible for ensuring that Seller complies with RCW 19.27.530. Buyer and Seller shall hold the Brokers and their Firms harmless from any claim resulting from Seller's failure to install a carbon monoxide alarm(s) in the Property.

**g. Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding the Assignment paragraph of this Agreement, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

**h. Closing Costs and Prorations and Charges and Assessments.** Seller and Buyer shall each pay one-half of the escrow fee unless otherwise required by applicable FHA or VA regulations. Taxes for the current year, rent, interest, and lienable homeowner's association dues shall be prorated as of Closing. Buyer shall pay Buyer's loan costs, including credit report, appraisal charge and lender's title insurance, unless provided otherwise in this Agreement. If any payments are delinquent on encumbrances which will remain after Closing, Closing Agent is instructed to pay such delinquencies at Closing from money due, or to be paid by, Seller. Buyer shall pay for remaining fuel in the fuel tank if, prior to Closing, Seller obtains a written statement as to the quantity and current price from the supplier. Seller shall pay all utility charges, including unbilled charges. Unless waived in Specific Term No. 14, Seller and Buyer request the services of Closing Agent in disbursing funds necessary to satisfy unpaid utility charges in accordance with RCW 60.80 and Seller shall provide the names and addresses of all utilities providing service to the Property and having lien rights (attach NWMLS Form 22K Identification of Utilities or equivalent).

Buyer is advised to verify the existence and amount of any local improvement district, capacity or impact charges or other assessments that may be charged against the Property before or after Closing. Seller will pay such charges that are encumbrances at the time of Closing, or that are or become due on or before Closing. Charges levied before Closing, but becoming due after Closing shall be paid as agreed in Specific Term No. 15.

**i. Sale Information.** Listing Broker and Selling Broker are authorized to report this Agreement (including price and all terms) to the Multiple Listing Service that published it and to its members, financing institutions, appraisers, and anyone else related to this sale. Buyer and Seller expressly authorize all Closing Agents, appraisers, title insurance companies, and others related to this Sale, to furnish the Listing Broker and/or Selling Broker, on request, any and all information and copies of documents concerning this sale.

**j. FIRPTA - Tax Withholding at Closing.** The Closing Agent is instructed to prepare a certification (NWMLS Form 22E or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign Investment In Real Property Tax Act. Seller shall sign this certification. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

**k. Notices.** In consideration of the license to use this and NWMLS's companion forms and for the benefit of the Listing Broker and the Selling Broker as well as the orderly administration of the offer, counteroffer or this Agreement, the parties irrevocably agree that unless otherwise specified in this Agreement, any notice required or permitted in, or related to, this Agreement (including revocations of offers or counteroffers) must be in writing. Notices to Seller must be

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**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT**  
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signed by at least one Buyer and shall be deemed given only when the notice is received by Seller, by Listing Broker or 117  
at the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and shall be deemed 118  
given only when the notice is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. Receipt by 119  
Selling Broker of a Form 17, Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, Public 120  
Offering Statement or Resale Certificate, homeowners' association documents provided pursuant to NWMLS Form 121  
22D, or a preliminary commitment for title insurance provided pursuant to NWMLS Form 22T shall be deemed receipt 122  
by Buyer. Selling Broker and Listing Broker have no responsibility to advise of receipt of a notice beyond either phoning 123  
the party or causing a copy of the notice to be delivered to the party's address shown on this Agreement. Buyer and 124  
Seller must keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification 125  
of receipt of a notice. 126

- i. Computation of Time.** Unless otherwise specified in this Agreement, any period of time measured in days and stated 127  
in this Agreement shall start on the day following the event commencing the period and shall expire at 9:00 p.m. of the 128  
last calendar day of the specified period of time. Except for the Possession Date, if the last day is a Saturday, Sunday 129  
or legal holiday as defined in RCW 1.16.050, the specified period of time shall expire on the next day that is not a 130  
Saturday, Sunday or legal holiday. Any specified period of 5 days or less shall not include Saturdays, Sundays or legal 131  
holidays. If the parties agree that an event will occur on a specific calendar date, the event shall occur on that date, 132  
except for the Closing Date, which, if it falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day 133  
when the county recording office is closed, shall occur on the next day that is not a Saturday, Sunday, legal holiday, or 134  
day when the county recording office is closed. If the parties agree upon and attach a legal description after this 135  
Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual 136  
acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than 137  
on the date the legal description is attached. Time is of the essence of this Agreement. 138
- m. Facsimile and E-mail Transmission.** Facsimile transmission of any signed original document, and retransmission of 139  
any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the 140  
Closing Agent, the parties will confirm facsimile transmitted signatures by signing an original document. E-mail 141  
transmission of any document or notice shall not be effective unless the parties to this Agreement otherwise agree in 142  
writing. 143
- n. Integration and Electronic Signatures.** This Agreement constitutes the entire understanding between the parties and 144  
supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall 145  
be effective unless agreed in writing and signed by Buyer and Seller. The parties acknowledge that a signature in 146  
electronic form has the same legal effect and validity as a handwritten signature. 147
- o. Assignment.** Buyer may not assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, 148  
unless the parties indicate that assignment is permitted by the addition of "and/or assigns" on the line identifying the 149  
Buyer on the first page of this Agreement. 150
- p. Default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the following 151  
provision, as identified in Specific Term No. 8, shall apply: 152
- i. Forfeiture of Earnest Money.** That portion of the Earnest Money that does not exceed five percent (5%) of the 153  
Purchase Price shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for such failure. 154
- ii. Seller's Election of Remedies.** Seller may, at Seller's option, (a) keep the Earnest Money as liquidated damages 155  
as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual 156  
damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue 157  
any other rights or remedies available at law or equity. 158
- q. Professional Advice and Attorneys' Fees.** Buyer and Seller are advised to seek the counsel of an attorney and a 159  
certified public accountant to review the terms of this Agreement. Buyer and Seller agree to pay their own fees incurred 160  
for such review. However, if Buyer or Seller institutes suit against the other concerning this Agreement the prevailing 161  
party is entitled to reasonable attorneys' fees and expenses. 162
- r. Offer.** Buyer shall purchase the Property under the terms and conditions of this Agreement. Seller shall have until 9:00 163  
p.m. on the Offer Expiration Date to accept this offer, unless sooner withdrawn. Acceptance shall not be effective until a 164  
signed copy is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. If this offer is not so 165  
accepted, it shall lapse and any Earnest Money shall be refunded to Buyer. 166
- s. Counteroffer.** Any change in the terms presented in an offer or counteroffer, other than the insertion of the Seller's 167  
name, shall be considered a counteroffer. If a party makes a counteroffer, then the other party shall have until 9:00 p.m. 168  
on the counteroffer expiration date to accept that counteroffer, unless sooner withdrawn. Acceptance shall not be 169  
effective until a signed copy is received by Seller, by Listing Broker or at the licensed office of Listing Broker. If the 170  
counteroffer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer. 171

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BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: \_\_\_\_\_ Date: \_\_\_\_\_

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT**  
**GENERAL TERMS**

*Continued*

- t. Offer and Counteroffer Expiration Date.** If no expiration date is specified for an offer/counteroffer, the offer/counteroffer shall expire 2 days after the offer/counteroffer is delivered by the party making the offer/counteroffer, unless sooner withdrawn.
- u. Agency Disclosure.** Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. If Selling Broker and Listing Broker are the same person representing both parties then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."
- v. Commission.** Seller and Buyer agree to pay a commission in accordance with any listing or commission agreement to which they are a party. The Listing Firm's commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing. Seller and Buyer hereby consent to Listing Firm or Selling Firm receiving compensation from more than one party. Seller and Buyer hereby assign to Listing Firm and Selling Firm, as applicable, a portion of their funds in escrow equal to such commission(s) and irrevocably instruct the Closing Agent to disburse the commission(s) directly to the Firm(s). In any action by Listing or Selling Firm to enforce this paragraph, the prevailing party is entitled to court costs and reasonable attorneys' fees. Seller and Buyer agree that the Firms are intended third party beneficiaries under this Agreement.
- w. Cancellation Rights/Lead-Based Paint.** If a residential dwelling was built on the Property prior to 1978, and Buyer receives a Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (NWMLS Form 22J) after mutual acceptance, Buyer may rescind this Agreement at any time up to 3 days thereafter.
- x. Information Verification Period and Property Condition Disclaimer.** Buyer shall have 10 days after mutual acceptance to verify all information provided from Seller or Listing Firm related to the Property. This contingency shall be deemed satisfied unless Buyer gives notice identifying the materially inaccurate information within 10 days of mutual acceptance. If Buyer gives timely notice under this section, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer.

Buyer and Seller agree, that except as provided in this Agreement, all representations and information regarding the Property and the transaction are solely from the Seller or Buyer, and not from any Broker. The parties acknowledge that the Brokers are not responsible for assuring that the parties perform their obligations under this Agreement and that none of the Brokers has agreed to independently investigate or confirm any matter related to this transaction except as stated in this Agreement, or in a separate writing signed by such Broker. In addition, Brokers do not guarantee the value, quality or condition of the Property and some properties may contain building materials, including siding, roofing, ceiling, insulation, electrical, and plumbing, that have been the subject of lawsuits and/or governmental inquiry because of possible defects or health hazards. Some properties may have other defects arising after construction, such as drainage, leakage, pest, rot and mold problems. Brokers do not have the expertise to identify or assess defective products, materials, or conditions. Buyer is urged to use due diligence to inspect the Property to Buyer's satisfaction and to retain inspectors qualified to identify the presence of defective materials and evaluate the condition of the Property as there may be defects that may only be revealed by careful inspection. Buyer is advised to investigate whether there is a sufficient water supply to meet Buyer's needs. Buyer and Seller acknowledge that home protection plans may be available which may provide additional protection and benefit to Buyer and Seller. Brokers may assist the parties with locating and selecting third party service providers, such as inspectors or contractors, but Brokers cannot guarantee or be responsible for the services provided by those third parties. The parties agree to exercise their own judgment and due diligence regarding third-party service providers.

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BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: \_\_\_\_\_ Date: \_\_\_\_\_